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(Supplementing Mason's 1940 Supplement)

Containing the text of the acts of the 1941 Session of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

Edited by
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5494-38. County board may acquire airports.—The board of county commissioners of any county in this state is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and regulate airports or landing fields for the use of airplanes and other aircraft within the limits of such counties, and may use for such purpose or purposes any property suitable therefor that is now or may at any time hereafter be owned or controlled by such county. The power or authority granted to any county or other political subdivision of the state by the provisions of Mason's Supplement 1940, Sections 5494-37 to 5494-47, inclusive, may, in any county of this state having at any time an area of over 5,000 square miles and a population of over 200,000 inhabitants, or in any county of this state having at any time an area of over 1,000 square miles and a population of over 30,000 inhabitants and containing not more than 45 full and fractional congressional townships, be exercised in co-operation with the governing body of any other such political subdivision in such county, as well as separately, in order to carry into effect the powers herein granted, whenever the governing body or bodies of any such political subdivision shall determine it to be in the public interest. Any co-operative agreement entered into between the governing bodies of any two or more such political subdivisions, either for the carrying on or abandon-

ment of any airport or landing field in such county shall be binding upon their respective political subdivisions.

Any payments heretofore made by any such county having over 5,000 square miles of area and a population of 200,000 inhabitants, or by any county having at any time an area of 1,000 square miles and a population of over 30,000 inhabitants and containing not more than 45 full and fractional congressional townships, to any other political subdivision of said county, is hereby legalized and declared valid in all respects; provided that no such counties or political subdivision in such counties shall, jointly or separately, have authority to spend in any calendar year more than \$50,000, in order to carry into effect the powers herein granted. Any such expenditures shall be included in, and shall not be in excess of, any limitations on expenditures of such political subdivision now fixed by law. (As amended Act Apr. 16, 1941, c. 264, §1.)

5494-39. May exercise power of eminent domain.

Under Uniform Airports Act municipality may condemn land beyond its limits and even within geographical limits of another municipality. *Howard v. A.*, 10SE(2d)(Ga) 190.

5494-44. Bonds may be issued.

Act Apr. 16, 1941, c. 257, enables villages having population in excess of 10,000 to issue bonds to complete construction of airports under construction.

CHAPTER 32

Preservation of Game and Fish

PART I.—TITLE TO WILD ANIMALS: TAKING: TRANSPORTATION

5496. Ownership in state.

Wild life is a subject of ownership only when reduced to possession. *Minnesota Valley Gun Club v. N.*, 290NW 222. See Dun. Dig. 3934.

While title to wild life is in the state as trustee, owner of land has a qualified property interest in that it is he who has exclusive right to reduce game to possession. *Id.* See Dun. Dig. 3933.

5498. Manner of taking game.

Removal of forearm of shot gun and leaving it partially broken open is not "taking apart". *Op. Atty. Gen.*, (208e-3), Oct. 20, 1939.

A "case" means a case especially designed to contain a gun, and a mere wrapping of cloth, clothing or articles does not comply with statute. *Op. Atty. Gen.*, (208e-3), Oct. 24, 1939.

A muskrat trapper who goes out half an hour before opening time of opening day of season, digs a hole in several muskrat houses and leaves unset trap there for apparent purpose of claiming possession ahead of others when season opens, does not violate §5542, but may be prosecuted under §5498. *Op. Atty. Gen.*, (210a-5), May 16, 1940.

5498-1. Use of certain ammunition prohibited.—

It shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state with a rifle or firearm which discharges a projectile the diameter of which projectile is less than twenty-three one hundredths of an inch; and provided further, that it shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state except with cartridges not less than one and three-fourths inches in length and containing a soft point or expanding bullet, said measurement to include the cartridge or shell and the bullet seated in the usual manner; and provided further, that nothing herein contained shall prohibit the use of cartridges less than one and three-fourths inches in length provided such cartridges are at least .35 caliber or larger. (Act Apr. 24, 1941, c. 412, §1.)

5498-2. Same—Shot or buckshot.—

It shall be unlawful for any person to hunt, pursue, shoot or kill any of the big game animals of this state with cartridges containing shot or buck shot. (Act Apr. 24, 1941, c. 412, §2.)

5498-3. Violation of act.—Any person convicted of a violation of any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than \$50.00 or more than \$100.00, or, in the discretion of the court, by imprisonment in the county jail for a period of not less than 30 days or more than three months. (Act Apr. 24, 1941, c. 412, §3.)

5505. Transportation and exportation of salable fish and game.—Subdivision 1. Any person may transport within this state or from a point within to a point without this state during the open season any wild animals or parts thereof, which may be lawfully sold, except as specifically prohibited by this chapter.

Subdivision 2. Any person, except agents or employees of a common carrier while engaged in the performance of their duties, may transport in a vehicle, boat, or other means of transportation otherwise than by common carrier, or may carry with him as baggage on a common carrier to any place within the state any wild animals, including fish, which may be legally in his possession, and common carriers are hereby permitted to carry such wild animals as baggage within the limits herein prescribed. If any such wild animal is carried as baggage and is contained in any package, sack, crate or other container there shall be attached to the outside thereof a tag signed by the licensee, written or printed, showing the name and address and license number of such licensee and the number and kind of wild animals or parts thereof contained in the same.

Subdivision 3. Any resident of this state may ship or transport by common carrier to any point in the county in which he resides, consigned to himself only, during any one open season not more than 45 game birds, of which not more than 36 may be water fowl, rails, or shore birds, and not more than nine may be upland game birds; provided, that not more than three shipments may be made in any one season and no shipment shall contain more than 12 waterfowl, rails or shore birds of all kinds in the aggregate, nor more than three upland game birds of all kinds in the

aggregate; and any such resident may so ship or transport during any one open season one deer lawfully taken and lawfully in his possession, and may so ship or transport the head or hide of any deer lawfully taken and lawfully in his possession for mounting or tanning purposes to a point within or without this state; all subject to the provisions of General Statutes 1923, Section 5506, as amended.

Subdivision 4. Only undressed upland or migratory wild fowl may be shipped, transported or carried. "Undressed" as herein used shall mean birds with heads and feet intact, but shall not prohibit the removal of entrails and feathers other than on the head.

Subdivision 5. Any non-resident, except agents and employees of a carrier while engaged in the performance of his duties, may ship or transport in a vehicle, boat or other means of transportation or may carry with him as baggage on a common carrier or may ship or transport by common carrier consigned to himself only to any point within or without this state, in the manner provided by Mason's Minnesota Statutes of 1927, Section 5506, any wild animals including fish lawfully taken or killed and possessed by him in this state but not to exceed during any one open season 25 game birds and one deer. Common carriers are hereby permitted to carry such wild animals as baggage.

Subdivision 6. Except as otherwise expressly provided by law, no person shall ship or transport any fish outside of this state except those which may lawfully be sold within the state.

Subdivision 7. Any variety of fish lawfully taken in commercial fishing operations in interstate or international waters may be shipped outside of this state.

Subdivision 8. A non-resident duly licensed to fish in this state, may, however, ship by common carrier as provided by this act to a point outside this state in any one season not to exceed 20 pounds of fish of any variety or one fish lawfully caught by him in this state, and as provided by this act; but not more than 10 pounds may be shipped on one coupon. Such non-resident shall further be authorized to transport or carry with him to any point beyond the boundaries of the state, not to exceed one daily limit of fish of any variety.

Only undressed fish may be shipped, transported or carried. "Undressed," as herein used, shall mean fish with the heads, tails, fins, scales and skins intact, but shall not prohibit the removal of entrails and gills.

Such shipment shall be made by the licensee to himself only.

Subdivision 9. A resident may ship fish lawfully taken and possessed by him from one point in the state to another provided such shipment must be made to the person taking such fish.

Subdivision 10. No person shall at any time ship or transport a greater number of any kind of wild animals than he is permitted by law to have in possession at such time. All wild animals under the control of any person, whether actually in his personal custody or in transit or at their destination after shipment, or otherwise, shall be deemed to be in the possession of such person for the purposes of this action and of any other law relating to wild animals. (As amended Act Apr. 26, 1941, c. 457, §1.)

5510. Penalties for violation.

(1).
Op. Atty. Gen., (210a-4), Oct. 25, 1939; note under §5551.

PART II.—LICENSES

5514. Hunting.

Resident fishing license may be issued to persons in military service or civilian conservation corps stationed in Minnesota, or to employees of game and fish or conservation departments of other states. Laws 1941, c. 302.

5536-2. Kind of licenses and fees therefor.

Resident fishing license \$1.00, and combination license for husband and wife \$1.50. Laws 1941, c. 467.

5536-3. Hunting, fishing, and trapping licenses.—Licenses shall be issued as follows:

Hunting or trapping licenses for residents of the state, by the county auditor of the county in which the applicant resides or by any agent of such auditor.

Hunting licenses for non-residents of the state, by the commissioner or any agent of the commissioner outside of the state, or by any county auditor in the state, or his agent.

Angling licenses for residents of the state, by the county auditor of the county in which the applicant resides, or by any agent of such auditor or any agent appointed by the director of game and fish.

Angling licenses for non-residents of the state, by the commissioner or any agent of the commissioner outside the state, or by any county auditor of the state, or his agent.

The commissioner may appoint agents to issue non-resident licenses of any kind outside of the state. Such appointments shall be in writing and a record thereof shall be kept by the commissioner. The commissioner may revoke any such appointment at any time. The commissioner may require any agent appointed by him to furnish a bond to the state, to be approved by the commissioner and filed in his office, in such sum as the commissioner may prescribe, at least equal to the total estimated amount of license fees and unsold licenses which will be in the hands of such agent at any one time, conditioned to secure the accounting by such agent for all license blanks furnished to and licenses issued by him and the payment by him according to law of all money received by him as fees for such licenses and the compliance by him with all the provisions of law relating to the issuance of such licenses. The commissioner may require a like bond of any county auditor if, in the opinion of the commissioner, his official bond is not sufficient for the purposes hereinbefore specified. The director of game and fish may in his discretion sell books of resident angling licenses for cash to any agent appointed by him anywhere within the state. All such license blanks shall be paid for at the time of purchase at a discount of eight per cent from the price established by law, and may be sold only to residents of the state living in counties other than the county in which the agent is appointed. In selling such licenses, such person shall be deemed to act in the capacity of agent of the director of game and fish and shall at the end of each calendar month make a report to said director, stating the serial number of each license sold and the name and address of the purchasers thereof. Any such agent may at any time within 90 days of the date of purchase, but not later than December 1st of the same year, return any such blanks to the director and shall thereupon be reimbursed for each unused license blank. The proceeds from such sales shall be paid into the state treasury and credited in accordance with the laws governing the crediting of receipts from the sale of resident fishing licenses. No such licenses shall be sold by such agents to any applicant not personally known to the agent making the sale, except upon production by the applicant of documentary evidence definitely establishing the residence of the applicant. Any document issued by any city, county or state official for the current year, showing the residence of the applicant, shall be deemed to comply with this requirement.

Every county auditor may appoint agents to issue within his county such licenses as such agents are authorized to issue. He shall if possible appoint at least one such agent in every city and village of his county outside of the county seat and at any other place in the county which may be designated by the commissioner and may appoint such other agents anywhere in the county as he deems necessary for the convenience of the public in obtaining licenses. Such appointments shall be in writing and a record thereof shall be kept by the auditor. Upon making any such appointment the auditor shall forthwith notify the commissioner of the name and address of the appointee. The auditor may revoke any such appoint-

ment at any time, and shall revoke any such appointment upon his own motion or when demanded by the game and fish commissioner whenever such agent shall violate any provision of the laws relating to the issuance of such licenses, or shall fail to give proper attention to the issuance thereof, or shall fail to account promptly for unsold licenses or license fees. The county auditor shall be responsible for all license blanks issued to and license fees received by his agents, and such agents shall be responsible to the auditor therefor. The auditor may require any such agent to furnish a bond to the auditor, in such sum as the auditor may prescribe, to be approved by the auditor and filed in his office, conditioned in like manner as the bonds to be furnished by agents of the commissioner as hereinbefore provided. All license fees received by such agents shall be deemed public moneys of the state, and such agents shall be amenable to all penalties provided by law relating to such moneys or to the issuance of such licenses. (As amended Act Apr. 18, 1941, c. 301, §1.)

5536-7. County auditor to deposit money with county treasurer.—Every county auditor shall promptly deposit with the county treasurer all moneys received by the auditor either directly or through his agents for license fees, and the treasurer shall make a record thereof and keep the same as other public funds. On or before the fifteenth of each month the county auditor shall make a written report to the director of game and fish for the preceding calendar month, stating the total number and the serial numbers of each kind of licenses sold, the amount of fees received for each kind of license, and the total amount received. He shall transmit to the director of game and fish with such report his warrant on the county treasurer in favor of the director of game and fish, or the county treasurer's check in payment of such warrant, for 90 per cent of all license fees received during such preceding calendar month by direct sale to licensees and all of the moneys received by sale to agents. Thereupon the county auditor shall be entitled to 10% of the fees derived from sale of licenses sold by him or his agents; or 2% of the fees for licenses sold for cash and resale, as hereinafter provided, as his compensation and may draw his warrant to himself upon the county treasurer in payment thereof. The county auditor shall pay his agents 5% of the value of the licenses sold by such agent, as his compensation. On or before the tenth of each month every agent of the director of game and fish shall make a written report to the director of game and fish for the preceding calendar month, containing the same information as hereinbefore prescribed for reports by county auditors, and shall with such report transmit to the director of game and fish 90 per cent of all license fees received during the preceding calendar month whereupon such agent shall be entitled to retain the remaining ten per cent of such fees as his compensation. The director of game and fish may also require any agent appointed by him to account to him for licenses and license fees at such other times as he shall direct. All moneys received by the director of game and fish for license fees, either directly or through county auditors or agents, shall be promptly remitted by the director of game and fish to the state treasurer, who shall credit the same to a special fund known as the game and fish fund, and all of said moneys are hereby appropriated for the maintenance and conduct of the activities of the office of director of game and fish, as provided by law.

Any resident of a county who shall apply to the county auditor of his county for hunting or fishing license blanks for resale may purchase such license blanks from such county auditor, and if such license blanks shall be purchased in groups of not less than ten non-resident license blanks and 25 resident license blanks which he is authorized to sell he shall be entitled to a discount of 8 per cent from the price established by law. All such license blanks shall be

paid for at the time of purchase. In selling such licenses, such person shall be deemed to act in the capacity of agent of the county auditor, and shall at the end of each calendar month make a report of such county auditor stating the serial number of each license sold and the name and address of the purchaser thereof. Any such resident of a county who shall purchase for resale not less than ten non-resident license blanks and 25 resident blanks may at any time within 90 days of the date of purchase but not later than December 1st of the same year return any such blanks to the county auditor, and shall thereupon be reimbursed for such unused license blanks at the price established by law, less 8 per cent. All moneys received by the county auditor where cash payment has been made in advance by such persons shall be deposited by the county auditor with the county treasurer and such treasurer shall deposit such amounts in a fund known as a "Game and Fish Reserve Fund." On or before the 15th day of each month the county auditor shall transfer from the "Game and Fish Reserve Fund" to the regular Game and Fish Fund, moneys sufficient to cover licenses sold by said agents during the preceding calendar month. The county auditor may draw his warrant upon the county treasurer in an amount or amounts necessary to reimburse any purchaser of licenses for resale, for all unsold license blanks returned to him in accordance with the provisions of this act. Said warrant or warrants shall be drawn upon the fund known as the Game and Fish Reserve Fund.

Provided, further, that any license blanks delivered to county auditors which have not been returned to the director of game and fish on or before the expiration of 90 days from the close of the calendar year for which said licenses were prepared, shall be conclusively presumed to have been sold and the said county auditor shall be held strictly responsible for the net return due therefrom.

Provided, however, the provisions of this act shall not be construed to in any way alter or repeal the provisions of Chapter 69, Laws of 1929, and Chapter 341, Laws of 1929 (s. s. 997-3, 997-4), nor any law now or hereafter enacted wherein provision is made that all fees collected by county officials in certain counties be paid into the county treasury. (As amended Act Apr. 19, 1941, c. 317, §1.)

5536-8. Violations of law by licensees.—Upon conviction of any person for any violation of any provision of law relating to any license issued to such person or relating to the wild animals covered by the license, this license shall immediately become null and void and no license of the same kind shall be issued to a person for a period of one year after the date of conviction. Upon conviction of any person for hunting, fishing, or trapping without a license or doing without a license any other act for which a license is required as hereinbefore provided, no license of the kind required for the doing of this act shall be issued to such person for one year after the date of conviction of the offense. Provided, that this section shall not apply to resident fishing licenses or to the taking of fish by residents by angling or spearing with or without license and provided that this exemption shall not apply to residents using dark houses with or without licenses. (As amended Act Mar. 28, 1941, c. 82, §1.)

5536-12a. Courtesy resident licenses.—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. (Act Apr. 18, 1941, c. 302, §1.)

5536-12b. Same—Persons licensed considered residents.—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. (Act Apr. 18, 1941, c. 302, §2.)

5536-13. Fees set aside for use of Game and Fish Commissioner.

No part of 50% of money derived from hunting licenses may be used for other game and fish work than for purposes stated, such as payment of salary to individuals who do not spend all their time in either game farm or game refuge work, or used to operate refuges not owned by state. Op. Atty. Gen. (983F), June 13, 1940.

5536-15a. License—Live minnows for bait.—All persons over 16 years of age taking for sale or dealing in live native minnows for bait purposes shall first procure a license so to do from the director of the division of game and fish. (Act Apr. 22, 1941, c. 364, §1.)

5536-15b. Application for license.—Application for such licenses shall be made upon forms furnished by the director and shall give the name and business address of the applicant, his age and description and such other information as the director may require. Upon receipt of any application, the director or his agent shall investigate the premises where it is proposed to keep such minnows for sale, and where such sale is made from a vehicle, all facilities used therefor. When the director or his agent shall find that such applicant is properly equipped for the retention and transportation of such minnows as is reasonably necessary to prevent undue wastage or loss, he shall issue the license hereinafter provided, applicable to the applicant. (Act Apr. 22, 1941, c. 364, §2.)

5536-15c. Definitions.—For the purposes of this act, a "local resident minnow dealer" shall be defined as any person, firm or corporation whose place of business is of a fixed nature and who catches or buys minnows for resale at retail only. An "itinerant minnow dealer" shall include any individual, firm or corporation engaged in transporting minnows for a distance of 15 miles or more for the purpose of sale. (Act Apr. 22, 1941, c. 364, §3.)

5536-15d. Fees.—The following fees shall be payable for licenses herein provided:

- (a) Local resident minnow dealer, \$2.50;
- (b) Itinerant minnow dealer, \$25.00. (Act Apr. 22, 1941, c. 364, §4.)

5536-15e. Prohibitions.—Importation of live minnows from any other state or the Dominion of Canada for bait purposes is hereby prohibited. No bait dealer shall at any time have in his possession any carp or carp minnows, nor the young of any game fish except perch. (Act Apr. 22, 1941, c. 364, §5.)

5536-15f. No other license required.—No bait dealers license other than herein provided shall be required. (Act Apr. 22, 1941, c. 364, §6.)

5536-15g. Violation; penalties.—Any violation of this act shall constitute a misdemeanor and any license issued hereunder may be revoked in the discretion of the director of game and fish upon conviction of the licensee for any violation hereof. (Act Apr. 22, 1941, c. 364, §7.)

5536-16. Resident fishing license—Combination licenses—Husband and wife.—The fee for a resident

fishing license to take fish by angling, subject to all other provisions of law relating thereto, shall be one dollar, provided a combination license for husband and wife shall be issued for \$1.50. (Act Apr. 26, 1941, c. 467, §1.)

5536-17. State fish propagation fund.—There is hereby created a State Fish Propagation Fund for the purpose of acquiring, creating, maintaining, improving and repairing state-owned fish hatcheries and rearing ponds and appurtenant equipment and for the purpose of making stream and lake surveys, scientific surveys relating to fishes and improving the waters of this state as a habitat for fishes. Said fund shall consist of all moneys now in the Fish Fry Fund as established by Mason's Minnesota Statutes of 1927, Section 5637, all moneys hereafter received which heretofore would have been accredited to said Fish Fry Fund, together with not less than 60% of all moneys received from the resident fishing license provided for herein. The amount of said fund is hereby annually appropriated to the Game and Fish Division for fish propagation. Not more than 40% of the resident fishing license fees shall be credited to the game and fish fund as provided in the 1938 Supplement to Mason's Minnesota Statutes of 1927, Section 5536-13. Provided, however, that any citizen of the State of Minnesota receiving old age assistance, shall, upon application, be granted a gratuitous fishing license. (Act Apr. 26, 1941, c. 467, §2.)

PART III.—QUADRUPEDS

5537. Open season for deer; etc.

Size of firearms to be used in taking big game animals. Laws 1941, c. 412.

5539. Manner of taking big game.—

(1) No artificial light, including automobile and motorcycle headlights and spot lights, snare, trap, set gun, swivel gun, salt lick or other device to entrap or entice deer shall be used, made or set, nor shall deer be taken by aid or use thereof. No snare for wolves or other wild quadrupeds shall be set in any runway used by deer. No such snare shall be set with a loop of greater maximum diameter than 12 inches, nor with the top of the loop higher than 24 inches above the ground. No spring pole shall be set or used with any such snare. Deer shall not be shot from any artificial scaffold, platform, or other construction higher than six feet above the ground. Deer shall not be hunted or pursued or killed with dogs or horses. Violation of any provision of this Subdivision relating to set guns or swivel guns shall be a gross misdemeanor. Violation of any provision of this Subdivision relating to artificial lights shall be a misdemeanor, and shall be punishable by a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment in the county jail for not less than 30 days nor more than 90 days. Violation of any other provision of this Subdivision shall be a misdemeanor.

(2) The licensee shall, after killing a deer, immediately affix to the carcass thereof, coupon tag "B" of his license. Immediately after a deer has been killed there shall be affixed to each carcass of deer before the same is transported or offered for transportation, a metal locking seal bearing the license number of the owner thereof and the year issued in figures, said seal to be furnished by the director of game and fish through the county auditors when licenses are sold and for which a fee of 25 cents shall be paid. (As amended, Act Apr. 28, 1941, c. 482, §1.)

Use of spotlight for hunting big game declared unlawful. Laws 1941, c. 498.

5541. Open season for certain animals—Tanning licenses.—(1) Gray and fox squirrels may be taken and possessed between October 15 and December 31 following, both inclusive. No person shall hunt, molest, or take any gray, black, red, fox, flying or other squirrel at any time within the corporate limits of any city or village or within one-quarter of a mile thereof.

A person may take during the open season, not to exceed 7 gray or fox squirrels in the aggregate of all kinds in any one day and may have not to exceed 14 gray or fox squirrels in the aggregate in possession at any time.

(2) Bear may be taken during any open season for taking deer, and between April 15 and May 15, both inclusive, next following any such open season for deer, provided, however that in areas in which bear becomes a nuisance to agriculture, or a menace to persons or property, bear may be taken at any time by the owner or occupant of real estate property from such property when said bear are a menace to person or property, or, by securing a permit from a game warden familiar with the area, which permit shall be issued for the taking of bear in the township or the adjoining township to the township in which applicant for a permit resides. No charge shall be made for such permit but a copy thereof shall be filed with the director of the division of game and fish, and such permit may be revoked at any time by the director of the division of game and fish upon recommendation of the game warden from the district where it was issued. Steel traps may be used for the purpose of taking or catching bear only upon permission of the game and fish commissioner to do so. Rules and regulations for the safe use thereof shall be prescribed by the commissioner and anyone setting them so as to become a danger to persons walking in the woods shall be guilty of a gross misdemeanor.

(3) Raccoon may be taken between November 1 and December 1, following, both inclusive. Raccoon may be taken at any time of day or night. Dogs may be used in taking raccoon, except in territory inhabited or frequented by deer. No person shall molest or take any raccoon in any manner in a den or hollow tree or cut down any tree inhabited or occupied by a raccoon. No trap for raccoon shall be set in or under water or in any muskrat runway.

(4) Any person desiring to retain in possession during the closed season the skins of protected fur bearing animals shall apply to the commissioner within five days after the close of the season for a permit so to do, and the commissioner or a game warden shall issue to the licensee a distinctive tag for each pelt to be retained in possession; and upon receipt thereof, the licensee shall affix one such tag to each pelt retained in possession. Such pelts lawfully tagged may be bought and sold at any time. This shall also apply to furs taken from animals trapped or killed on land owned or occupied by the trapper.

(5) 1. Every person engaging in the business of tanning and dressing of raw furs, hides or pelts of beaver, otter, fisher, marten, muskrat, mink, skunk, deer or bear shall procure a license so to do from the director of game and fish, and for which he shall pay a fee of (\$2.00).

2. All licenses issued hereunder shall be for the calendar year and shall expire on the 31st day of December of each year. Licenses may be revoked at any time by the director of game and fish for any violation of the law relating to wild animals.

3. Every person engaged in the business of tanning and dressing of raw furs under license issued by the director of game and fish, shall report to the director of game and fish the number and kinds of raw hides or pelts of beaver and muskrat received for tanning and dressing purposes, when received and from whom, and shall keep a register of such transactions which register shall be open for inspection by the director of game and fish or his duly authorized representatives. Upon reporting to the director of game and fish of the receipt of any shipment of raw beaver or muskrat hides or pelts for the purpose of tanning and dressing, the director of game and fish or his duly authorized representative shall cause to be attached to each individual hide or pelt, an identification tag or seal, which tag or seal shall remain on such hide or pelt during all of the time such hide or pelt is

in the process of tanning and dressing. The tag or seal attached by the director of game and fish or his representative shall be of such a nature as not to interfere in any way with the tanning and dressing process and shall be attached so as not to materially damage the hide or pelt to which attached. Such tags or seals shall be procured from the director of game and fish by the licensee and for which he shall pay one cent each, which tags or seals shall remain attached to such hides or pelts during all times such hides or pelts are in the possession of such tanner. All raw hides and pelts of beaver and muskrat found in any tannery, whether in the process of tanning or dressing, without having attached thereto such tags or seals as authorized by this chapter, shall be deemed contraband and subject to seizure by the director of game and fish or his duly authorized representative, and no action for damages shall be maintained against the director of game and fish or his representative for such seizure.

4. Any person violating any of the provisions of this section shall be guilty of a misdemeanor. (As amended, Act Apr. 22, 1941, c. 366, §1.)

5542. Open season for fur bearing animals.—(1) Mink may be taken by trapping between November 1st and January 31st following, both dates inclusive, and bought, sold and possessed at any time; provided no traps for mink shall be set in any muskrat house or runway and provided that mink may not be dug from their dens or taken with the aid of dogs. Provided, however, that mink may be taken or killed in any manner at any time by the actual occupant of any lands to which the mink so killed or taken are causing any damage or injury. Upon the killing of any such mink at any time other than during the regular season as hereinabove provided therefor, the entire carcass including hide shall be turned over and surrendered to the nearest warden or employee of the Division of Game and Fish within 24 hours of the time such animal was killed.

(2) Muskrats may be taken only by trapping in such areas of the state and in such numbers and during such times in the several areas, not exceeding 30 days in the aggregate for any area between November 1 and April 30 following, both inclusive, in any year in any county, and subject to such other provisions not inconsistent with this act, as the director may by regulation from time to time prescribe according to conditions existing in the respective areas. No person shall set or use more than 50 traps for muskrats at any one time. No person shall set, visit, or remove any trap for muskrats between the hours of 8 P. M. and 6 A. M.

(3) Skunk may be taken in any manner, except with the aid of dogs, between October 20 and March 1 following, both inclusive. Provided, however, that skunk may be taken or killed in any manner at any time by the actual occupant of any lands to which the skunk so killed or taken are causing any damage or injury. Upon the killing of any such skunk at any time other than during the regular season as hereinabove provided therefor, the entire carcass including hide shall be turned over and surrendered to the nearest warden or employee of the Division of Game and Fish within 24 hours of the time such animal was killed.

(4) Such animals, legally taken, may be possessed, bought and sold at any time upon compliance with all applicable provisions of law relating thereto. (As amended Act Mar. 12, 1941, c. 60, §1.)

(2) A muskrat trapper who goes out half an hour before opening time of opening day of season, digs a hole in several muskrat houses and leaves unset trap there for apparent purpose of claiming possession ahead of others when season opens, does not violate §5542, but may be prosecuted under §5498. Op. Atty. Gen., (210a-5), May 16, 1940.

5543. Open season for badger, marten, fisher, otter or beaver.—(1) No person shall take or possess badger, marten, fisher, otter or beaver at any time,

or molest or disturb any badger, marten, fisher, otter or beaver, except as hereinafter provided.

(2) Beaver may be taken only by trapping in such counties or portions of counties of the state as the commissioner shall designate for a period not exceeding 15 days between December 1st and May 1st following, both days inclusive. The commissioner of conservation, upon receipt of a license fee of \$2.50, shall issue to any person a license to take beaver, specifying therein the number of beaver that may be taken, provided that no more than ten beaver may be taken in any one season under such license.

(3) The licensee shall report, within 10 days after the close of the season for the taking of any beaver and the number of beaver so taken by him, to the commissioner, or to the game warden or wardens designated by the commissioner, and shall submit the skins and such other portions of all such beaver, in the manner and at the time required by order of the commissioner, to the inspection of the commissioner or warden, whereupon the commissioner or warden shall issue and affix to each skin a distinctive tag, stamp, or seal. The licensee shall pay the commissioner a fee of \$1.00 for each tag, stamp, or seal, so issued. Beaver skins so taken and tagged, stamped, or sealed may be bought, sold and transported at any time upon compliance with all applicable provisions of law relating thereto. The commissioner shall keep a record of each such tag, stamp, or seal, the number issued, to whom issued and the date of issue. Provided, however, that beaver may be taken or killed in any manner at any time by the actual occupant of any lands to which the beaver so killed or taken are causing any substantial damage or injury. Upon the killing of any such beaver at any time other than during the regular season as hereinabove provided therefor, the entire carcass including the hide shall be turned over and surrendered to the nearest warden or employee of the Division of Game and Fish within 24 hours of the time such animal was killed.

(4) Beaver may be trapped in a game refuge only by the Division of Game and Fish by persons employed so to do by the Director of the Division of Game and Fish under conditions and regulations to be prescribed by the director.

(5) Any person who shall unlawfully take, possess, transport, sell, or otherwise dispose of any beaver or any part thereof shall be guilty of a gross misdemeanor and shall, upon conviction be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment. (As amended Act Mar. 12, 1941, c. 60, §2.)

License may be issued to take beaver when causing substantial damage. Laws 1941, c. 551.

5547. Trading in furs—Keeping record.—Nothing in this act shall be construed as prohibiting the buying, shipping or having in possession at any time, of the skins of fur-bearing animals legally killed within or without the state, and of the hides of moose or deer legally killed within or without the state, upon proof that such furs and hides were legally taken. No person shall engage in the business of buying furs until he shall have procured a license so to do 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 local resident fur buyer's license, \$5.00; for a resident \$10.00; for a non-resident local or traveling fur buyer's license, \$200.00; for a resident wholesale fur buyer's license, \$5.00. Such fur buyer's licenses shall be issued for the calendar year and shall be revoked by the director of game and fish for any violation of the law relating to wild animals or for fraudulent practices employed in connection with the buying of furs under such license. All fur buyers shall furnish to the director of game and fish such reports as he may require for statistical purposes on blanks furnished them for this purpose, and shall keep a correct and complete book

record in the English language of all transactions in the buying and selling of raw furs carried on by the licensee. Such record shall and must show from whom purchased and to whom sold giving the post-office addresses, together with the date of receipt and shipping of such furs, and a detailed account as to the number and kinds of raw furs in each shipment that is purchased or sold by them. This record shall be open for inspection by the director of game and fish, his agents or deputies at all reasonable hours. Said record shall be kept intact for a period of two years after the expiration of any license issued under the provisions of this act as relates to the transactions carried on while such license was effective. Any person applying for a fur buyer's license shall at the time of his application furnish a corporate surety bond in favor of the state in the penal sum of \$1,000.00 conditioned upon the observance of all laws of this state relating to wild animals. No beaver trapping license shall be issued to any person to whom a fur buyer's license shall have been issued and in force. For the purpose of this act a local resident fur buyer shall be defined as a person who buys or purchases furs at definitely established place of business as distinguished from an itinerant or traveling buyer. (As amended Act Apr. 24, 1941, c. 410, §1.)

5547-2. Use of artificial lights in hunting big game prohibited.—No person, whether singly or as one of a group of persons, shall have in possession or under control unless unloaded and properly encased, or broken down any firearm or other implement whereby big game could be killed and at the same time 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, hunting, catching, taking, killing or wounding any big game animal. (Act Apr. 28, 1941, c. 498, §1.)

5547-3. Violation of act—Public nuisance—Confiscation of goods.—Any person violating any of the provisions of this act shall be guilty of a gross misdemeanor and all motor vehicles, trailers, headlights, spotlights, guns and firearms or other contrivances and all paraphernalia used and possessed in violation hereof, are hereby declared to be a public nuisance and subject to seizure and confiscation in accordance with law and the provisions of this act. (Act Apr. 28, 1941, c. 498, §2.)

5547-4. Same—Complaint by Director of Game and Fish—Return of seized property upon acquittal—Conviction—Notice to persons claiming interest in property—Sale—Disposition of proceeds.—All motor vehicles or trailers 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 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 and 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 this 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. Provided further, that at any time after seizure of said motor vehicles or trailers and before the hearing herein provided for, such 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 less 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 said property at the time of seizure. (Act Apr. 28, 1941, c. 498, §3.)

5547-5. Permit to take beaver causing damage.—Whenever beaver shall at any time, in any locality, be causing substantial damage to railroad right-of-way, public highway, or private property, within or without a game refuge, the commissioner of conservation may, upon receipt of a license fee of \$2.50, issue to any person as hereafter provided, a permit to take beaver causing such damage, specifying therein the number, the time and the place where the same may be taken. (Act Apr. 28, 1941, c. 551, §1.)

5547-6. Report to commissioner.—The permittee shall report within ten days after the taking of any beaver, the number so taken, to the commissioner or

to a game warden designated by him and shall submit the skins and such other portions of all such beaver in the manner and at the time required by the order of the commissioner, to the inspection of the commissioner or warden. Thereupon the commissioner or warden shall issue and affix to each skin a distinctive tag, stamp or seal. Licensee shall pay the commissioner a fee of \$1.00 for each tag, stamp or seal so issued. The beaver skins so taken or tagged, stamped, or sealed may be bought, sold or transported at any time upon compliance with all applicable provisions of law relating thereto. The commissioner shall keep a record of each such tag, stamp or seal, the number issued, to whom issued and the date of issue. (Act Apr. 28, 1941, c. 551, §2.)

5547-7. Violation.—Any person who shall unlawfully take, possess, transport, sell, or otherwise dispose of any beaver or any part thereof or who shall violate any of the provisions of this act or the regulations of the commissioner made hereunder or the terms of this permit, shall be guilty of a gross misdemeanor. (Act Apr. 28, 1941, c. 551, §3.)

PART IV.—BIRDS

5550. Bird dogs.—Game birds may be taken during the open season with the aid of dogs. The owner or trainer of a dog may take the same afield for the purpose of training said dog, from August 15 to April 15 following, both inclusive, provided that such owner or trainer shall carry no firearms of more than 22 caliber, and the use of firearms of 22 caliber with blank cartridges in training dogs is hereby permitted when done so as not to inflict injury upon any game birds or quadrupeds contrary to law. The use or training of dogs between April 16 and August 14 following both inclusive, in fields inhabited or frequented by game birds is prohibited. Any dog so used is hereby declared to be a public nuisance and may be summarily killed by any person. (As amended Act Apr. 24, 1941, c. 421, §1.)

5551. Open season for certain game birds.

It is now permissible to hunt or shoot game birds of any kind on any public highway in state except a state trunk highway, and it is permissible for a hunter standing upon a trunk highway to shoot birds which are outside limits of highway, subject to other applicable laws. Op. Atty. Gen., (210a-4), Oct. 25, 1939.

PART V.—FISH

5563. Bait.—Minnows for bait may be taken at any time with a net, trap or seine; provided, that immature game fish and carp shall be carefully sorted out at the time of taking and the game fish at once returned to the water and the said carp at once destroyed; provided further, that no net or seine used for the taking of minnows shall be more than 25 feet in length or more than four feet in depth. Minnows as defined in Mason's Minnesota Statutes of 1927, Section 5649, paragraph 12, may be bought and sold. Provided, however, no minnows shall be taken with a net, trap or seine in waters inhabited by trout. The use of game fish except yellow perch for bait is prohibited. The sale, or transportation of live or preserved minnows imported from other states is prohibited for any purpose. (As amended Act Apr. 21, 1941, c. 331, §1.)

Persons over 16 years of age dealing in live native minnows for bait purposes must procure a license. Laws 1941, c. 364.

5565. Open season for trout.—Trout (except lake trout) may be taken by angling and thereafter possessed between May 1 and September 1 following, both days inclusive. A person may not take to exceed 15 such trout in one day, nor have in possession more than 25 such trout or 20 pounds thereof at any one time. The use of three artificial flies in trout fishing is permitted. Such trout may not be bought or sold at any time. No such trout may be taken by the use or with the aid of artificial light of any kind, including bonfires, automobile headlights and spot lights.

No such trout may be taken between the hours of nine P. M. and one hour before sunrise. (As amended Act Apr. 24, 1941, c. 424, §1.)

5568. Open season for certain fish.—Wall-eyed pike, saugars or sand pike, great northern pike or pickerel, and muskellunge may be taken by angling and thereafter possessed between May 15 and February 15 following, both inclusive. Provided, however, there shall be no authority to change by executive order or order by the commissioner of conservation the closing date above specified.

A person may take not to exceed eight such pike, saugars or sand pike, great northern pike or pickerel, or two such muskellunge in a day, and may have not to exceed 12 such pike, saugars or sand pike or great northern pike or pickerel in his possession at one time. Provided, however, that the daily and possession limits of such species shall remain at eight per day for pike, saugars or sand pike, great northern pike or pickerel or two muskellunge per day and the possession limit shall remain at 16 pike, saugars or sand pike or 20 great northern pike or pickerel with respect to all fish taken from boundary waters between the state of Minnesota and the possessions of the Dominion of Canada until such time as the Canadian Provinces bordering upon such boundary waters shall have reduced the limits, in which event the director of game and fish may by order prescribe similar limits to apply in Minnesota territorial waters. Yellow perch may be taken and possessed at any time without limit as to number; provided, that the commissioner of conservation may, whenever he deems it necessary to prevent the undue depletion of perch in any water, fix by regulation a limit of 25 perch per day therein. All such fish taken, regardless of size, may be retained in possession and counted.

Wall-eyed pike, saugars or sand pike, great northern pike or pickerel, and muskellunge, except those taken from waters which may be open for the sale thereof by the director of game and fish may not be bought or sold at any time. Great northern pike or pickerel may be taken by spearing through the ice between December 1 and March 1 following, both inclusive and such fish so speared may be possessed during said time. (As amended Act Apr. 28, 1941, c. 489, §1.)

This section as amended by Laws 1939, chapter 424, must prevail over §5640, as amended by Laws 1939, chapter 269. Op. Atty. Gen., (211B-2), Oct. 25, 1939.

5570. Open season for crappies.

This section as amended by Laws 1939, chapter 424, must prevail over §5640, as amended by Laws 1939, chapter 269. Op. Atty. Gen., (211B-2), Oct. 25, 1939.

5574. Carp and suckers—Open season.—Carp, dogfish, redborse, sheephead, suckers, eelpout, garfish, bullheads of any size, whitefish not less than 16 inches in length, and buffalofish of not less than 15 inches in length may be taken by angling, except during March and April, or by spearing through the ice between December 1st and March 1st following, both inclusive, and possessed, without limit, unless otherwise specially provided except that it shall be unlawful for any person to have in his possession more than 50 bullheads so taken at any given time. Such fish may be bought or sold in any quantity at any time. Provided, however, that the director of game and fish may allow the use of artificial lights in spearing rough fish and in such waters as he may deem proper. Provided, further, that the director of game and fish may allow the taking of suckers, redborse and carp, by angling at any time in the Root river from the east city limits of the city of Rushford in Fillmore county, Minnesota, to the Mississippi river. (As amended Act Apr. 16, 1941, c. 239, §1.)

5574a. Same—Daily limit.—A person may take not to exceed ten catfish, by angling or otherwise, in any one day and shall not have more than 15 catfish in possession at any one time. (Act Apr. 16, 1941, c. 239, §2.)

5581. Use of explosives prohibited.—Fish shall not be taken by means of explosives, drugs, poisons, lime, medicated bait, fish berries, or other deleterious substance, or by nets, traps, tipups, trot lines, wire strings, ropes or cables, except where otherwise expressly provided by this chapter. Possession of any of such substances or contrivances by any person on the waters, shores, or islands of this state, shall be presumptive evidence that the same are possessed for use in violation of this section. It shall be unlawful to have in possession fish nets, except minnow nets, landing nets and dip nets and all nets held in stock for sale by dealers, unless tagged and licensed by the game and fish director. Such tags and licenses shall be for the current year. Whoever violates the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$50.00 nor more than \$100.00 or by imprisonment in the county jail for not less than 30 days. (As amended Act Apr. 17, 1941, c. 290, §1.)

5585. Open season for dark houses and fish houses.—Dark houses, fish houses or shelters to protect a person fishing through the ice to take by spearing or angling, pickerel, carp, dogfish, buffalofish, whitefish, tullibeas, sheephead, bullheads, catfish, eelpout, garfish, suckers and redborse, may be used from December 1 to March 1, following, both inclusive, in all waters of this state, including those over which Minnesota has concurrent jurisdiction with other states, only under license from the director of game and fish for which a fee of \$1.00 shall be paid. Such license shall be granted by the director only on satisfactory evidence that such dark house or fish house will be used by the applicant for taking fish for domestic or personal use, and not for commercial purposes, provided, that carp so caught may be bought and sold at any time. Not more than one dark house or fish house shall be used by any one person, and every licensee shall have his license on his person while fishing in a dark house or fish house. The number of the license shall be plainly marked on the exterior of the dark house or fish house. Licenses to erect dark houses or fish houses on certain lakes may be denied by the director when in his opinion conditions based upon factual data justify such denial, but not more than 50 per cent of the waters of any given county may be closed in any one year under the authority here granted to deny licenses on certain lakes. (As amended Act Apr. 24, 1941, c. 417, §1.)

5586. Open season for whitefish and herring—Netting license—Tags on nets.—

Subdivision 1. Whitefish and tullibeas may be taken by means of gill nets of the sizes herein specified from such inland waters of the state as shall have been first declared open by order of the commissioner of conservation, upon the recommendation of the director of game and fish, between October 15 and December 25 following, both inclusive, unless the commissioner shall set the date of opening at a later date in certain lakes, and fresh water herring may be taken by means of gill nets of the sizes herein specified from such inland waters of the state as shall have been first declared open by order of the commissioner of conservation, upon the recommendation of the director of game and fish, between November 1 and January 10 following, both inclusive, in inland lakes of the state, for private use or consumption, but not for sale, provided a license to do so shall be first obtained from the commissioner.

Subdivision 2. Said nets shall not exceed 100 feet in length nor three feet in width and the size of mesh for taking herring shall not be less than one and three-fourths inches, extension measure, and the size of mesh for taking whitefish and tullibeas shall not be less than three and one-half inches, extension measure.

Subdivision 3. Such licenses shall be procured from the commissioner. The applicant shall make a writ-

ten application to the commissioner on a form prepared by him stating (a) his name and residence, (b) the approximate location where it is proposed to set said nets, (c) the number and size of nets to be used, and shall pay as a license fee the sum of one dollar for each net to be used.

Subdivision 4. Said nets shall not be set any other place than that designated in the application, unless the written consent of the commissioner be first procured. Said nets shall not be set in water deeper than six feet. A pole or stake shall be set at one end of each net so as to project at least two feet above the surface of the water. No nets shall be set nearer together than 50 feet, nor shall any net be set in a lake not known to contain whitefish, tullibees or herring. Not more than two nets shall be used by any one licensee.

Subdivision 5. Marked metal tags, to be furnished by the commissioner, shall be attached by the licensee to each net used by him in such fishing and shall be kept thereon during all the time these nets are in use. (As amended Act Mar. 28, 1941, c. 81, §1.)

PART VI.—COMMERCIAL FISHING

5598. Open season for fishing.—Any variety of fish, except black bass, rock bass, 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 Beaudette, 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 applicants 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 2,500 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, or 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 30 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 not be 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 any one having a license for ten 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 whitefish 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 held 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 willfully 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 buyer's 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; wall-eyed 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 wall-eyed 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 there-

of, 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 prop-

erty 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 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. (As amended Act Apr. 18, 1941, c. 303, §1.)

5599. Lake Superior fishing—Herring and trout—Open season.—(A) * * * *

Subdivision 1. The size of mesh of nets shall be fixed as follows:

(a) Gill nets for taking herring of not less than $2\frac{3}{8}$ -inch mesh, extension measure, when in possession and measured from center of knot to center of knot, on and after July 1st, 1935, but of not less than $2\frac{1}{2}$ -inch mesh, flexible rule measure, on and after July 1, 1943. Flexible rule measure shall mean distance between the extreme angles of any single mesh and such measurement shall be taken between and inside the knots with a flexible steel gauge constructed and used as prescribed by the National Bureau of Standards as hereinafter defined. All measurements of the mesh of gill nets or gill netting shall be made by inserting in the mesh parallel with the selvage, a gauge made of spring steel, free from rust, of a length equal to the number of inches prescribed in this order for the mesh measured. The ends of the gauge shall be free of sharp edges or burrs. The gauge shall be straight and shall not be graduated, and any necessary markings shall be placed near the ends of the gauge. The length of the straight gauge, measured parallel with the long edge, shall not at any point exceed or be less than the prescribed length by more than one-thousandth (.001) of an inch. Its width at any point shall not exceed nine-sixteenths of an inch or be less than seven-sixteenths of an inch. Its thickness shall be such that when it is set vertically on a solid anvil with its upper end loaded with a dead weight between seven and one-half and eight and one-half ounces, the gauge shall deflect at its middle one-tenth of its length. The gauges to be used for measuring the mesh of gill nets or gill netting as provided by this order shall be certified and approved by the National Bureau of Standards and shall be approved also by the conservation commissioner.

In gauging a mesh, the flexible gauge shall be held only by the ends and bent between thumb and forefinger, the bent rule shall be then inserted in the mesh parallel with the selvage and with the collapsed mesh, and finger pressure shall be released immediately, not gradually. If the gauge does not straighten out completely under its own tension within two seconds after it is released in the mesh, without slipping a knot or breaking the twine, the mesh shall be considered unlawful, and if the majority of ten or more meshes selected at random by the enforcement officer from any part or parts of the gill net or from the entire gill net or from any gill netting being gauged are found to be unlawful, the gill net or gill netting shall be seized and confiscated. The meshes to be gauged shall be at least three meshes removed from the selvage or side lines, shall not be stretched or manipulated in any way prior to or after the insertion of the gauge, and the same mesh shall not be gauged more than once.

(b) Gill nets for taking lake trout, pickerel and whitefish, not less than $4\frac{1}{2}$ inches mesh, extension measure, when in possession, and measured from center of knot to center of knot, but of not less than $4\frac{1}{2}$ -inch mesh, flexible rule measure on and after July 1, 1943.

(c) Gill nets for taking ciscoes, not less than $2\frac{3}{8}$ inches mesh, flexible rule measure, when in possession and measured from center of knot to center of knot; Providing, that whenever nets set for the purpose of taking ciscoes shall catch more than 10% of lake trout less than 17 inches in length, or whitefish less than 16 inches in length, such nets shall be deemed illegally set and shall be moved from the waters in which they were set, upon notice from the director of game and fish or his representative. Nets for taking ciscoes shall be set in water not less than 40 fathoms in depth.

(d) Bait nets for taking chubs and live bait, not less than $1\frac{1}{2}$ nor more than $1\frac{3}{4}$ -inch mesh, flexible rule measure, such nets to be set in not less than 40 fathoms, to be set only on the bottom, and to be used only between March 15 and August 1 following of each year. Provided further that whenever nets set for the purpose of taking bait shall catch any lake trout, their location shall be moved until waters uninfested by trout have been reached or located.

(e) All nets permitted to be used under the provisions of this chapter, shall, when set for fishing purposes be properly marked at the ends of such nets with proper buoys, and the licensee's number shall be plainly marked on any buoy indicating the location of any net set for taking of fish. All nets set in Lake Superior waters under the jurisdiction of this state having a mesh less than permitted by this chapter and all nets having a mesh less than permitted by this chapter found on or within premises commonly used for the receiving and marketing of fish from Lake Superior waters, and including fish receiving stations, sheds, warehouses and docks, are hereby declared illegal and subject to confiscation by the director of game and fish or his representative and may summarily be destroyed.

Subdivision 2. Such license shall be procured from the director of game and fish. The applicant shall make a verified written application to the director of game and fish on a form prepared by him, stating: (a) His name and residence; (b) The period of time the applicant has resided in the county in which he desires to fish, and whether a citizen of the United States. Such license shall be designated as a "Master's License" and for which he shall pay the sum of \$2.50. Every person assisting the holder of a "Master's License" in going to and from the fishing locations or who assists in the setting and lifting of nets or in the removal of fish from such nets, unless he shall be the holder of a "Master's License," 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 "Master's License" and for which there shall be paid the sum of \$2.50; such licenses may be transferable; and shall be transferred upon application made by the holder of a "Master's License" without any additional charge. Application for "Helper's License" shall be made to the director of game and fish and shall give: (a) The name and residence of the applicant; (b) Name of person holding "Master's License" employing him; (c) Whether a resident of Minnesota and (d) Whether a citizen of the United States. "Master's Licenses" shall not be transferable and shall be issued for one fishing season only, and provided that aliens who have duly declared their intention of becoming citizens of the United States and who have not failed to qualify as citizens within the length of time in which they may legally do so, shall be entitled to "Helper's Licenses;" Provided, however, that no person shall be entitled to receive a "Master's License" unless such person has been a bona fide resident of the State of Minnesota for at least one year and a resident of the county where he desires to fish for at least 90 days. The holder of a "Master's License" shall be entitled to fish in any waters under the jurisdiction of the State of Minnesota. (As amended Act Apr. 22, 1941, c. 379, §§1, 2.)

Subdivision 3. * * * * *

5599-1. Commercial fishing in boundary waters—Negotiations with South Dakota or Iowa.—The game and fish director of the State of Minnesota is hereby authorized to enter into negotiations with the proper authorities of the states of South Dakota or Iowa relative to commercial fishing in boundary waters between the State of Minnesota and the states of South Dakota or Iowa, and adopt such rules or make such contracts as may be found necessary governing the letting of contracts for commercial fishing and providing for the inspection and division of proceeds and for regulating all necessary matters relating to such commercial fishing in such boundary waters. (As amended Act Apr. 19, 1941, c. 316, §1.)

5599-2. Same—Contracts by game and fish director.—In the event that no agreement can be made or rules adopted between the game and fish director of Minnesota and the proper authorities of South Dakota or Iowa relative to commercial fishing in boundary waters, then and in that event the game and fish director of Minnesota may make contracts for commercial fishing on a percentage basis in such boundary waters and provide for the supervision, inspection and regulation thereof, and in such contract or regulation conform so far as may be deemed necessary with the contract or regulations observed in the states of South Dakota or Iowa relating to such boundary waters. (As amended Act Apr. 19, 1941, c. 316, §2.)

5599-4. Same—Modification or change of open season.—The season provided in Mason's Supplement 1940, Section 5599 (A) for the taking of herring, lake trout, ciscoes, pickerel, or whitefish may be modified or changed from time to time by order of the commissioner of conservation, upon recommendation of the director of game and fish so as to correspond with the season for taking such fish or any species thereof provided by Wisconsin law. (Added Act Apr. 22, 1941, c. 379, §3.)

5599-5. Same—Licenses—Residents of adjoining states.—Residents of the states of Wisconsin and Michigan who are citizens of the United States may procure a commercial fishing license to take such fish as are enumerated in Mason's Supplement 1940, Section 5599, Subdivision (A) according to law, in waters of Lake Superior lying within the jurisdiction of Minnesota, upon payment of a fee equal to the fee charged residents of Minnesota for similar privileges in waters within the jurisdiction of Wisconsin and Michigan. (Added Act Apr. 22, 1941, c. 379, §4.)

PART VII.—GAME REFUGES AND FARMS, AND STATE PARKS

5620-13 1/2. Classification and sale of forfeited lands.—All lands which have heretofore or shall hereafter become the absolute property of the state under the provisions of Mason's Supplement 1940, Section 5620-7, and are suitable for agricultural purposes shall be classified as such by the county board of the county wherein such lands are situated. No lands shall be offered for sale under the provisions of this act until their classification by the county board as agricultural lands shall have been approved by the conservation commissioner; provided however, that the county auditor may with the approval of the conservation commissioner sell any parcel or tax-forfeited land or any portion thereof to any organized or incorporated governmental subdivision of the state for any public purpose for which said subdivision to acquire property at not less than the appraised value thereof as determined by the county board. (As amended Act Apr. 16, 1941, c. 278, §1.)

5620-13 1/2 a. Appraisal.—All lands which have heretofore or shall hereafter become the absolute property of the state under the provisions of Mason's Supplement 1940, Section 5620-7, and are classified as agricultural lands shall be appraised by the county board of the county wherein such lands are situated, and such appraisal shall be filed in the office of the county auditor of such county. Provided, further, that any merchantable timber on such lands shall be appraised separately and such appraisal shall be approved by the commissioner of conservation. Such county board may reappraise any such lands whenever in its judgment such reappraisal is necessary in effectuating the provisions of this act, but no such lands shall be appraised more than once in any 12 month period. (As amended Act Apr. 16, 1941, c. 278, §2.)

5620-13 1/2 b. Sale—Notice—Parcels.—All lands so classified and appraised and remaining unsold shall be offered for sale at a public sale to be held by the county auditor at the time determined by the county board in a resolution authorizing said sale and fixing the date of the commencement thereof. The auditor shall publish a notice of the intended sale and the resolution authorizing same by publication once a week for two weeks in an official newspaper of the county, the last publication to be not less than ten days previous to the commencement of said sale. Notice of such sale shall be given in substantially the following form:

Notice of Sale of Agricultural Lands

Notice is hereby given that on, the day of, 19, at my office in in the county of I shall sell to the highest bidder the following described parcels of land in said county, which have been forfeited to the state for non-payment of taxes, and which have been classified as agricultural lands and appraised as provided by law. Said sale be governed by the provisions of Laws 1935, Chapter 210, as amended, and by the resolution of the county board authorizing such sale, which resolution is as follows:
(Insert resolution)

Section or Lot	Description	Twp. or Range Block
	Appraised Value	
	\$	
	\$	

Auditor of County
Such land shall be described in the notice and offered for sale in parcels not exceeding one-quarter section in area. (As amended Act Apr. 16, 1941, c. 278, §3.)

Only one sale during each calendar year is permitted. Op. Atty. Gen., (425c-5), Oct. 6, 1939.

5620-13½c. To be sold for not less than appraised value—Possession.—Said lands shall be sold to the highest bidder and at the price not less than the appraised value thereof. Any lands not sold at such public sale may be sold by the county auditor at a price not less than the appraised value thereof. The sale shall continue until all parcels are sold or until the county board shall order a reappraisal or shall withdraw any or all such parcels from sale or until such time as the county board shall have determined by resolution adopted before giving notice of sale. Any lands remaining unsold may be included in the notice of sale and offered for sale by the county auditor in each following year until the same shall be sold, or said original list of lands may be added to annually by publishing, in the same manner as provided for the publication of the original list, the descriptions and appraised values of such additional parcels which have been classified as agricultural and which classification shall have been approved as provided by law.

The purchasers at such sale shall be entitled to immediate possession, subject to the provisions of any existing valid lease made in behalf of the state. (As amended Act Apr. 16, 1941, c. 278, §4.)

5620-13½d. May be purchased by federal entryman or patentee or by record owner.

Section applies only to lands within Red Lake Game Refuge. *Op. Atty. Gen., (425c-13), Jan. 30, 1940.*
This section relates only to land within Red Lake game preserve. *Op. Atty. Gen. (983m), Sept. 24, 1940.*

5620-13½e. Terms of sale.—All sales under this act shall be for cash or on the following terms: at least 15 per cent of the purchase price shall be paid in cash at the time of the sale, and the balance thereof shall be paid in equal annual installments over a period of 20 years with interest at the rate of four per cent per annum payable annually on the portion from time to time remaining unpaid with privilege of prepayment of any installment on any interest date. Sales on terms shall be evidenced by a certificate issued by the county auditor in such form as the attorney general shall prescribe. The appraised value of all merchantable timber on such agricultural lands shall be paid for in cash in full at the time of sale. The county auditor shall report all sales to the state auditor.

If the purchaser shall default in the payment of any installment or of any interest when due, or shall fail to pay before they become delinquent all taxes that may be levied upon the land so purchased, the state auditor shall within six months thereafter cancel said certificate of sale. (As amended Act Apr. 16, 1941, c. 278, §5.)

5620-13½g. State auditor to convey property.

Form for conveyance as provided by attorney general. *Op. Atty. Gen., (410G), Sept. 29, 1939.*

5620-13½i. County Treasurer to collect funds.—The county treasurer shall collect all payments of principal and interest made under this act and shall place the same in a special fund and shall report all collections to the state auditor. There shall be transferred from such special fund to the revenue fund of the county the cost of giving the notices herein required, and there shall be paid from such fund to the members of the county board upon warrant of the county auditor \$3.00 per day for each day necessarily consumed in the classification and appraisal of the lands under this act, and mileage at the rate of five cents per mile for necessary travel; provided further, that where the county board has appointed a land commissioner under the provisions of Mason's Supplement 1940, Section 2139-25, the actual expenses of the land commissioner, together with mileage at the rate of five cents per mile for necessary travel in gathering data and information to assist the county board in making classifications and appraisals hereunder, shall be paid from said fund upon warrant on the county auditor.

The net amount remaining in said fund shall be transmitted by the county treasurer to the state audi-

tor at the times provided for tax settlements, and shall be credited to the Red Lake game preserve fund created by said Mason's Supplement 1940, Section 5620-3. (As amended Act Apr. 16, 1941, c. 278, §6.)

5620-13½k. Cancellation of taxes and tax liens.—After forfeiture to the state of any parcel of land lying within the Red Lake game preserve, as provided by Laws 1935, Chapter 278, the county auditor shall cancel all taxes and tax liens appearing upon the records, both delinquent and current, and all special assessments, delinquent or otherwise. (Act Apr. 16, 1941, c. 278, §7.)

5620-13½l. Sale or demolition of any structure.—Until after the sale of any parcel of tax-forfeited land, whether classified as agricultural or non-agricultural hereunder, the county auditor may, with the approval of the commissioner of conservation, provide for the sale or demolition of any structure located thereon, which has been determined by the county board to be within the purview of Mason's Minnesota Statutes of 1927, Section 5961, and for the sale of salvage material, if any, therefrom. (Act Apr. 16, 1941, c. 278, §8.)

5620-13½m. Sale of timber.—The county auditor may with the approval of the county board sell dead, down and mature timber upon any tract of agricultural land designated by the conservation commissioner. Such sale of timber products shall be for cash at not less than the appraised value thereof as determined by the conservation commissioner; to the highest bidder after not less than one week's published notice in an official paper within the county. Provided that any timber offered at such public sale and not sold may thereafter be sold at private sale by the county auditor at not less than the appraised value thereof. Provided, however, that the forestry practices to be followed in the cutting of said timber shall be approved by the conservation commissioner. (Act Apr. 16, 1941, c. 276, §9.)

5620-13a. Federal migratory waterfowl refuge at Talcot Lake.—There is hereby ceded to the United States for the purpose of maintaining and operating a migratory waterfowl and wild-life refuge at Talcot Lake in Cottonwood County, Minnesota, all jurisdiction of the State of Minnesota over the water areas contained in the following description:

All that part of Section 19, Township 105 N., Range 38 West of the 5th Principal Meridian, in the County of Cottonwood, State of Minnesota, lying south of Lots 2, 3, 4, 5 and lying north of the south $\frac{1}{8}$ line of said Section 19 aforesaid, reserving, however, to the State of Minnesota full and complete jurisdiction and authority over all such areas not incompatible with the maintenance and control thereof by the United States for the purposes of the waterfowl and wild-life refuge herein referred to. (Act Mar. 28, 1941, c. 87, §1.)

PART VIII.—BREEDING WILD ANIMALS AND FISH

5621. Fish raised in private hatcheries—Sale of—Permits—Spawning beds.

Any association of sportsmen within the state may engage in the propagation of game fish for purpose of transplanting in public lakes or streams. Laws 1941, c. 137.

5625-1. Permits to engage in raising wild animals.—The owner or lessee of any lands of private waters within the State of Minnesota, suitable for breeding and propagating wild animals, fur bearing animals and game birds shall have the right to establish, operate, and maintain thereon a farm or ranch for the purpose of breeding, propagating, and dealing in such animals or game birds and their pelts or products, upon enclosing said lands or private waters or portions thereof, as hereinafter provided, and upon complying with the provisions thereof of this act and obtaining a license therefor, as hereinafter provided.

The term "private waters," as used herein, shall mean all bodies of water or streams, whether meandered or not, of a normally shallow, swampy, marshy or boggy character, not navigable in fact and no longer of any substantial beneficial use to the general public, and where all of the land immediately abutting upon, surrounding or bordering on said waters, together with all riparian rights incident thereto, are owned or held under written lease from the owner by the person, firm or corporation making application hereunder. Lands or private waters to be used as a farm or ranch for raising wild animals, fur bearing animals or game birds shall have suitable enclosures approved by the Director of Game and Fish for confining the respective kinds of wild animals, fur bearing animals or birds to be raised thereon, provided that private use under this act shall not in any way interfere with the free passage of fish in the streams affected. (As amended Act Apr. 25, 1941, c. 443, §1.)

5625-5. Shipment of pelts and products—Tagging pelts, etc., sold or transported.—When any pelts or products of any protected animals or game birds raised by any licensee under the provisions of this act are sold or transported, a tag, in duplicate form, shall be attached thereto, to be furnished by the director of game and fish to the licensee at cost, not exceeding one cent each. Such tags shall be issued for each calendar year and shall expire on December 31 in each year. Such tags so issued by the director shall be numbered consecutively and issued in duplicate and shall be executed in duplicate by the licensee, showing the date of shipment of such pelts or products of any such animals or game birds, the name and address of the person to whom shipped, the license number and the name and address of the licensee, and the kind of pelts, game birds or products so shipped. The duplicate of such tags so attached shall be mailed immediately to the Director of Game and Fish. Failure to attach such tags to any pelts raised under such license shall cause such pelts or products of any protected animals or game birds to be subject to confiscation. No wild or native deer may be taken or had in possession at any time for propagating, exhibition or pet purposes except as hereinafter authorized. All deer now contained on licensed game farms, private and public parks and zoos, and the progeny of such deer may be bought and sold or otherwise disposed of only when alive, but before any such disposition is made the licensee shall notify the director of game and fish of the proposed disposition and if satisfactory the director shall approve such disposition and cause a tag to be placed upon the crate or container to be used in the transportation of such deer before said animal is transported. Such tag shall remain upon said crate or container at all times until it has reached its destination. A duplicate copy of said tag shall be kept and maintained in the records of the director of game and fish. Any deer of any licensed game farm, private and public parks and zoos which dies or is killed, shall be disposed of only as directed by the director of game and fish or his agent. (As amended Act Apr. 24, 1941, c. 413, §1; Act Apr. 25, 1941, c. 443, §2.)

5625-6. Licenses—Fees.—The holder of any such license for the raising of wild animals or fur bearing animals only shall pay an annual license fee of three dollars for any such farm or ranch of ten acres or under, and an additional fee of 15 cents per acre for any additional land or waters actually devoted to the raising of wild animals or fur-bearing animals of any kind or kinds specified in the license: provided that such person may be licensed to raise both fur-bearing animals and game birds for an additional fee of \$2.00. The holder of any such license for propagating deer shall pay an additional fee of \$2.00. The holder of any such license for the raising of game birds only shall pay an annual license fee of \$5.00, regardless of the acreage involved, and for propagat-

ing deer only, shall pay an annual license fee of \$5.00. Such license fees shall be paid on or before March 1 of each year and shall expire on December 31 of each year, but shall be renewed from year to year upon payment by the licensee of the annual license fee, subject to the provisions of this act. The operation of said game bird or fur farms and the raising and propagation of such wild animals, game birds and fur-bearing animals without having secured a license so to do, and failure to comply with the terms of this act and to pay the license fee designated herein, shall constitute a misdemeanor, and any animals found upon the premises of any such game bird or fur farm shall be subject to confiscation. (As amended Act Apr. 25, 1941, c. 443, §3.)

PROPAGATION OF GAME FISH

5625-14a. Use of rearing ponds by associations lawful.—It shall be lawful for any bona fide organization or association of sportsmen within the state to engage in the propagation of game fish by use of rearing ponds, whenever the fish so raised therein or produced therefrom are used exclusively for transplanting in the public lakes and streams of this state. (Apr. 9, 1941, c. 137, §1.)

5625-15. Brood stock obtained from game warden.—Any such organization or association may, under the supervision of the local game warden or other person designated by the director of game and fish, acquire from public waters by seining, for rearing pond propagation, such number of live brood stock and such species as may be approved by the director of game and fish; and such brood stock when so obtained may be lawfully kept and retained in possession provided the same are used exclusively for the propagation and reproduction of fish life. (Apr. 9, 1941, c. 137, §2.)

5625-16. Nets and equipment for seining to be maintained by local game warden.—Any such organization may acquire, use and maintain such nets or other equipment as are suitable for the proper seining of brood stock and the proper seining of said rearing ponds. Provided, however, all such equipment, the possession of which is otherwise illegal except for the provisions of this act, when not actually in use shall be kept and maintained in the custody of the local game warden. (Apr. 9, 1941, c. 137, §3.)

5625-17. Rules and regulations.—All seining of brood stock and planting of fish reared under the provisions of this act shall be done in accordance with rules and regulations to be adopted by the director of game and fish and said director is hereby authorized and it shall be his duty to cooperate in every way with such organizations and to afford such aid and assistance in equipment and personnel as may be available. (Apr. 9, 1941, c. 137, §4.)

5625-18. Same; provisions.—The director of game and fish shall prescribe such reasonable rules and regulations as may be deemed necessary and advisable to give effect to the intent and purpose of this act; provided that all such rules and regulations shall be designed to encourage and foster the propagation of game fish and in the manner herein contemplated and shall be designed to encourage the devotion of voluntary services, moneys and equipment not otherwise available to the state in the propagation of game fish; and provided further that no fee shall be required from any such organization or association of sportsmen in order to engage in the activities herein set forth. (Apr. 9, 1941, c. 137, §5.)

5625-19. Planting to be approved by director of game and fish.—All game fish reared under the authority of this act shall be planted in such public waters of the state as are selected and designated by the organization operating said rearing pond, subject, however, to the approval of the director of game and fish or his agents. (Apr. 9, 1941, c. 137, §6.)

5630. Commissioner—General powers and duties; etc.

(5). Commissioner of conservation authorized to sell state fisheries plant and equipment, state fish hatchery and equipment and appurtenant buildings located at Redby, Minnesota. Act Mar. 12, 1941, c. 61.

PART IX.—COMMISSIONER AND WARDENS

5630-1. Sale or exchange of land.—Whenever lands to which title has been acquired in the name of the state, for the purpose of public hunting grounds, under the provisions of Mason's Supplement 1940, Section 5630, shall be found by the commissioner of conservation to be unsuitable for the purpose of establishing and maintaining the same as public hunting grounds and game refuges, he shall have the authority, subject to the approval of the executive council, to sell or dispose of such lands at a price not less than that for which they were purchased, or he may exchange said lands for lands of equal value that are suitable for rounding out, enlarging, filling in, or adding to areas upon which public hunting grounds have been established. (Act Apr. 24, 1941, c. 404, §1.)

5630-2. Proceeds of sale.—The proceeds from any sales shall be paid in to the state treasury and credited to the public hunting ground fund and are hereby appropriated and made available for the authorized uses and purposes of such fund. (Act Apr. 24, 1941, c. 404, §2.)

5636. Disposition of fines—Cost of keeping and maintaining game law violators.—All fines collected for violation of any law relating to wild animals, game birds and fish shall be paid to the county treasurer of the county where the conviction was had and one-half of said fines shall be by that officer transmitted to the commissioner, who shall pay the same into the state treasury. The remaining half of said fines shall be credited to the general revenue fund of the county; provided, however, that the board of county commissioners of any county may direct the payment of all

such fines to the state treasurer and thereafter such fines shall be paid to the state treasurer. In any county where all such fines are paid to the state treasurer, the costs of keeping and maintaining prisoners for violation of any law relating to wild animals, game birds and fish, shall be paid out of the game and fish fund unless otherwise paid. The county auditor shall monthly prepare and certify a statement itemizing the costs to the county of keeping and maintaining any such prisoners, and shall submit the same to the commissioner of conservation, who shall cause the same to be paid out of the game and fish fund. (As amended, Act Apr. 22, 1941, c. 368, §1.)

Statutes divide proceeds of fine for game law violation, irrespective of what enforcement officer makes arrest and takes part in prosecution. Op. Atty. Gen. (989a-6), Oct. 4, 1940.

Provision for payment of one-half of fines collected into state treasury applies only to fines collected and does not affect general rule that statutory costs of prosecution, when not paid by defendant, shall be paid by county. Op. Atty. Gen. (208G-8), Oct. 16, 1940.

5637. Removal of fish from shallow lakes.—The director of the division of game and fish may whenever after investigation, he finds that any fish are in danger of smothering in winter by reason of the shallowness of the waters inhabited by them, take the same in any manner at any time from such shallow lakes or sloughs, and may transfer such as may be suitable for stocking purposes to other waters in this state, and may sell such as are not deemed suitable by him for stocking purposes, or the director may, by published order, open such waters to fishing in any manner except with the use of seines or explosives, by residents of the state of Minnesota for personal use only and not for sale. (As amended Act Feb. 27, 1941, c. 32, §1.)

5640. Additional protection—Governor's orders.

An actual finding of danger of depletion or extinction must be made as a basis for an order. Op. Atty. Gen. (211B-2), Oct. 25, 1939.

This section, as amended, is affected by Laws 1939, chapter 424, amending sections 5568 and 5570, relating to pike, pickerel, muskellunge and crappies. Id.

CHAPTER 33**Public Libraries****STATE PUBLIC LIBRARY COMMISSION****5656 and 5657. [Repealed.]**

Repealed. Laws 1941, c. 169 except as therein provided.

5658. Purchase of books—Office. [Repealed.]

Repealed. Laws 1941, c. 169 except as therein provided. Reenacted as §3156-1(18).

State library has no authority to refund money paid for books borrowed, lost, paid for, and later found and returned. Op. Atty. Gen. (285), Jan. 9, 1941.

5659 and 5660. [Repealed.]

Repealed. Laws 1941, c. 169, except as therein provided. Reenacted as §§3156-1(19) and 3156-1(20).

PUBLIC LIBRARIES AND READING ROOMS**5662. When established by vote—Existing libraries.**

Cities or villages adopting home rule charter may provide therein for maintenance of existing library and manner of control. Op. Atty. Gen., (285a), Dec. 27, 1939.

5665. Organization of board—Rules, etc.

All claims against village library fund should first be approved and ordered paid by library board, and should then be forwarded to village council, where they should be paid in same manner as other claims are paid, council passing upon propriety and legality of claims, but not upon wisdom of library board action. Op. Atty. Gen., (285a), May 21, 1940.

City of Northfield may invest funds of library in special improvement certificates of the city. Op. Atty. Gen. (285), Oct. 11, 1940.

Library board has authority to increase salaries of employees during fiscal year and make increase retroactive, provided no limitations are imposed by charter provisions or fire laws or regulations and is within budget. Op. Atty. Gen. (285a), Feb. 28, 1941.

5666. Nonresidents—Contracts to loan books—Tax.

Considering sections 673, 1591, and 5666 together, county cannot contract for library service for county through cities outside county if there is a public library in the county, though inconveniently located. Op. Atty. Gen., (285), Nov. 10, 1939.

5667. Directors now in office—Report.

It is mandatory that every library should make its report in July. Op. Atty. Gen. (285), Aug. 28, 1940.

5670. Law libraries.

Laws 1939, c. 96. Repealed. Laws 1941, c. 372.

Act Apr. 22, 1941, c. 372, §2, 3, provides that money collected under provisions of Laws 1939, c. 96, shall be paid to county treasurer who, upon order of the district court may pay it out for the purchase of law books for the county, and section 4, provides for the reimbursement of one who has paid costs in any action to the clerk, under Laws 1939, c. 96.

Act Apr. 10, 1941, c. 193, provides that in counties having assessed valuation, excluding money and credit, in excess of \$19,000,000, population of 36,000 to 37,000, and 22 to 24 townships, a law library may be established by order of a judge of the district court of said county.