

CHAPTER 99

GAME REFUGES, GAME AND FUR FARMS

99.01-99.24 Repealed, 1945 c 248 s 7.

99.25 GAME REFUGES; ESTABLISHMENT, VACATION

HISTORY. 1945 c 248 s 3; 1947 c 609 s 18, 19; 1949 c 150 s 25; 1949 c 390 s 1, 2; 1951 c 62 s 1; 1953 c 102 s 1.

Only the area enclosed within the posted boundary as required by Minnesota Statutes 1949, Section 99.25, Subdivision 7, becomes effective as a state game refuge. OAG Dec. 4, 1952.

99.26 GAME REFUGES; PROTECTION

HISTORY. 1945 c 248 s 3; 1947 c 609 s 20; 1949 c 150 s 26; 1949 c 390 s 1, 2.

Indian clouds on land title grants. 32 MLR 28.

How we bought the United States from the Indians. 32 MLR 34.

The doctrinal origin of Indian title. 32 MLR 43.

Johnson v McIntosh, and other Indian title cases. 32 MLR 47.

99.27 GAME AND FUR FARMS

HISTORY. 1945 c 248 s 3; 1949 c 150 s 27.

A restaurant or hotel having obtained a permit from the director of game and fish may legally purchase pheasants raised on a licensed game farm and may sell same to its customers, provided each pheasant or part thereof so sold has affixed thereto the locking seal or device furnished by the division and by keeping the records required. OAG Dec. 19, 1947 (210-D-7).

CHAPTER 100

QUADRUPEDS, BIRDS

100.01-100.25 Repealed, 1945 c 248 s 7.

100.26 UNPROTECTED ANIMALS

HISTORY. 1945 c 248 s 4; 1949 c 150 s 28; 1949 c 629 s 1.

Domestic pigeons and doves are not wild animals and poison may not be used in taking them. OAG May 19, 1947 (210-D-7).

100.27 SEASONS

HISTORY. 1945 c 248 s 4; 1947 c 609 s 21, 22; 1949 c 150 s 29; 1951 c 19 s 1; 1951 c 33 s 1; 1951 c 361 s 3; 1953 c 9 s 1; 1953 c 10 s 1.

Criminal complaints charging that defendants did wilfully and unlawfully then and there attempt to take mink with the use of a dog and by digging, and

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did molest and injure a muskrat runway by digging into the same with a shovel, contrary to conservation order number 1244 and section 100.27, subdivision 4, alleged two separate offenses and demurrers thereto should have been sustained. *State v Hedstrom*, 233 M 17, 45 NW(2d) 715.

A hunter who takes deer and in so doing, offends against the provisions of sections 98.45 and 100.27, may be prosecuted for both offenses. OAG Aug. 24, 1951 (208-G-13).

100.28 LIMITS

HISTORY. 1945 c 248 s 4; 1949 c 150 s 30.

A licensee to take a deer with bow and arrow is limited to killing of one deer and if he takes one deer under his license, he cannot thereafter kill a deer by rifle. One deer is the limit no matter how killed. OAG Sept. 24, 1951 (210-D-2).

100.29 RESTRICTIONS AND PROHIBITIONS

HISTORY. 1945 c 248 s 4; 1947 c 609 s 23; 1949 c 150 s 31; 1951 c 30 s 1; 1951 c 380 s 1; 1951 c 458 s 1; 1953 c 31 s 1; 1953 c 375 s 1.

Evidence was insufficient to overcome a son's prima facie ownership of automobile arising from registration thereof under motor vehicle law in son's name, and presumption of gift to son by father arising from payment of purchase price of automobile by father and transfer of title to and delivery thereof to son, and hence father could not interpose defense of ownership in proceeding by state to forfeit automobile which son had used in spotlighting deer. *State v One Oldsmobile*, 227 M 280, 35 NW(2d) 525.

Due process requires that penal legislation expressed in general and flexible terms furnish a test based upon knowable criteria which men of common intelligence who come in contact with the statute may use with reasonable safety in determining its command. Section 100.29 is not so general, vague, indefinite, or uncertain as to deny due process of law. *State v Suess*, 236 M 174, 52 NW(2d) 409.

The requirements of section 100.29 (8) are that when hunting deer the cap must be solid scarlet or bright red and the outer garment of hunter from the waist up must be either solid scarlet or bright red throughout 75% of its visible surface. OAG Sept. 13, 1949 (210-D-2).

The provisions of section 100.29 relating to shooting migratory water fowl and rails in open water apply to hunting in all waters, private as well as public. OAG Oct. 7, 1949 (210-A-1).

The use of bow and arrow in taking animals and birds is not prohibited. OAG July 11, 1950 (210-D-7).

It is unlawful to hunt game birds on a county highway against the objection of the owner of the underlying fee. Consequently it is unlawful to hunt migratory water fowl or other kind of game bird from that portion of a county maintained road lying between two tracts of land which are posted against hunting. OAG Nov. 5, 1951 (210-A-4).

The act of locating deer by airplane, landing at a distance and returning to the location where the deer were seen and taking deer, is all a part of the one act of hunting deer by airplane and is prohibited. OAG Dec. 31, 1951 (210-D-20).

A rifle range or trap shoot more than two miles from a city does not require a permit under section 98.48 but must comply with the requirements of section 100.29 as amended by Laws 1951, Chapter 30. OAG Sept. 26, 1952 (209).

A rifle is a firearm fired from the shoulder having upon the surface of its bore special grooves, called rifling, to impart a rotary motion to the projectile. Revolvers and pistols are not included within the term "rifle or shotgun" as used in section 100.29. Trappers may carry a pistol or revolver in the territory open to the taking of deer. OAG Nov. 4, 1952.

100.30 POSSESSION, SALE, TRANSPORTATION

HISTORY. 1945 c 248 s 4; 1949 c 150 s 32.

100.303 PELTS, SKINS, OR HIDES TAKEN ON INDIAN RESERVATIONS

HISTORY. 1951 c 178 s 1.

100.31 DISCHARGE OF FIREARMS FROM PUBLIC PROPERTY

HISTORY. 1949 c 635 s 1.

Section 100.31 applies only in cases involving the taking of big game animals. Section 615.09 applies to improved public highway, that is, a public highway upon which the state or a governmental division of the state has made some improvements and continues to maintain such highway. Section 615.09 does not apply to the taking of game. OAG Oct. 2, 1950 (210-A-4).

CHAPTER 101

FISH

101.01-101.40 Repealed, 1945 c 248 s 7.

101.41 SEASONS, LIMITS

HISTORY. 1945 c 248 s 5; 1945 c 583 s 1; 1949 c 150 s 33; 1949 c 631 s 1; 1951 c 210 s 1; 1951 c 674 s 1; 1953 c 280 s 2.

101.411 SPEARING ROUGH FISH, LIMITATIONS

HISTORY. 1945 c 248 s 5; 1947 c 364 s 1; 1949 c 150 s 34.

101.42 RESTRICTIONS AND PROHIBITIONS

HISTORY. 1945 c 248 s 5; 1947 c 308 s 1; 1947 c 609 s 24; 1949 c 150 s 35; 1949 c 389 s 1; 1949 c 634 s 1; 1951 c 443 s 1; 1953 c 236 s 1; 1953 c 381 s 1; 1953 c 539 s 1.

If the line used by the ice fisherman contains a single hook and the owner remains within sight of the line, the use of a light aluminum rod fixed into a weighted ball-shaped base by which the rod stands upright on the ice but which tips when the fish strike the bait, does not violate the provisions of section 101.42. OAG May 21, 1947 (211-8).

Not only the use but also the purchase of untagged nets is unlawful excepting minnow nets, landing nets, tag nets, or nets held in stock for sale by dealers. A tag or seal must be purchased each current year by the owner thereof even though it is not used. OAG March 2, 1950 (211-A-8).

A riparian owner has no property in public waters. He may make reasonable use thereof. Throwing or depositing deleterious substances into public waters which impair the healthfulness of the water or which is detrimental to fish life is prohibited. OAG July 23, 1952 (273-A-16).

101.43 FISH SCREENS

HISTORY. 1945 c 248 s 5; 1949 c 150 s 36.

101.44 FROGS, SEASON AND REGULATIONS

HISTORY. 1945 c 248 s 5; 1949 c 150 s 37.