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97.40 GAME AND FISH

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CHAPTER 97

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97.01-97.39 [Repealed, 1945 c 248 s 7]

97.40 DEFINITIONS. Subdivision 1. For the purposes of chapters 97 to 102 the following terms shall have the meanings given them in this section.

Subd. 2. "Commissioner" means the commissioner of conservation of the state of Minnesota.

Subd. 3. "Division" means the division of game and fish of the department of conservation of the state of Minnesota.

Subd. 4. "Director" means the director of the division of game and fish.

Subd. 5. "Wild animals" means all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, and includes quadrupeds, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks.

Subd. 6. "Protected wild animals" includes all wild animals which are accorded some measure of protection in the time or manner of taking, other than restrictions in the use of artificial lights or poison.

Subd. 7. "Fur bearing animals" includes all protected mammals, except deer, moose, elk and caribou.

Subd. 8. "Big game" includes deer, moose, elk and caribou.

Subd. 9. "Small game" includes all protected wild mammals and birds not included in "big game."

Subd. 10. Every provision relating to any wild animal shall be deemed to apply to any part thereof with the same force and effect as it applies to the whole.

Subd. 11. "Rough fish" includes carp, buffalofish, perch, suckers, redhorse, sheepshead, dogfish, eelpout, tullibees, garfish, goldeyes, bullheads and turtles.

Subd. 12. "Minnows" includes chubs, shiners, dace, stonerollers, mudminnows, blunt-nose, fat-head, and other small fish commonly used for bait which have only one dorsal fin, and suckers and redhorse not over 10 inches in length, and bullheads and perch not over seven inches in length.

Subd. 13. "Open season" means the period during which protected wild animals may be taken.

Subd. 14. "Closed season" means the period during which protected wild animals may not be taken.

Subd. 15. "Taking" includes pursuing, shooting, killing, capturing, trapping, snaring and netting wild animals, and all lesser acts such as disturbing, harrying or worrying or placing, setting, drawing or using any net, trap or other device used to take wild animals, and includes every attempt to take and every act of assistance to any other person in taking or attempting to take wild animals.

Subd. 16. "Possession" means both actual and constructive possession and any control of the things referred to.

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Subd. 17. "Transport, transportation" means carrying or moving by any instrumentality, causing to be carried or moved by any instrumentality, attempting to do so, or accepting or receiving wild animals for transportation or shipment.

Subd. 18. "Sale, sell" includes barter, exchange for consideration, offer to sell, or possession with intent to sell.

Subd. 19. "Buy" includes barter, exchange for consideration, offer to buy, or attempt to buy.

Subd. 20. "Person" includes any individual, and except when used in reference to issuing licenses to take wild animals, any firm, copartnership, joint stock company, association, or municipal or private corporation.

Subd. 21. "Resident" means any citizen of the United States who has maintained a legal residence in the state of Minnesota for a period of six months immediately preceding the date of application for license, a domestic corporation, or a foreign corporation authorized to do business in the state which has conducted the business licensed at an established place within the state for a period of at least ten years.

Subd. 22. "Waters of this state" includes all boundary and inland waters.

Subd. 23. "Dark house" is a structure set on the ice and so darkened as to permit the discernment of fish in the water beneath such structure.

Subd. 24. "Contraband" means any wild animal taken, bought, sold, transported, or possessed in violation of chapters 97 to 102, and all instrumentalities and devices used in taking wild animals in violation thereof as are subject to confiscation.

Subd. 25. "Undressed birds" means birds with heads and feet intact, but does not prohibit the removal of entrails or feathers, other than on the head.

Subd. 26. "Undressed fish" means fish with heads, tails, fins and skins intact, whether entrails, gills, or scales are removed or not.

Subd. 27. "Local minnow dealer" includes any person who is engaged in taking, buying, or transporting minnows for sale, or in selling minnows, who has an established place of business, and who does not take or transport such minnows to or from any point more than 15 miles from such place of business. "Itinerant minnow dealer" includes any other person engaged in taking, buying, or transporting minnows for sale, or in selling minnows, regardless of distance of transportation.

Subd. 28. All dates specified in chapters 97 to 102 and all periods prescribed as open season or for the doing of certain things shall be inclusive, unless otherwise specified.

Subd. 29. "Motor vehicle" means any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle, whether operated upon a highway, railroad track, on the ground, in the water, or in the air.

Subd. 30. "Camp" means the temporary abode of any hunter, fisherman, trapper, tourist or vacationist while on a hunting, fishing, or trapping trip or on a tour or vacation trip, including resorts, tourist camps, and other establishments providing temporary lodging for such persons.

Subd. 31. "Hunting" includes pursuing, shooting, killing, capturing, and trapping birds or quadrupeds and all lesser acts, such as disturbing, harrying, or worrying or placing, setting, drawing, or using any device commonly used to take birds or quadrupeds; and includes every attempt to take and every act of assistance to any other person in taking or attempting to take birds or quadrupeds.

Subd. 32. "Angling" means taking fish by hook and line in hand, or rod in hand, with not to exceed more than one bait attached thereto, nor with more than one line or rod.

Subd. 33. "Commercial fishing" means the taking of fish for resale, except minnows.

[1945 c 248 s 1; 1947 c 300 s 1; 1947 c 609 s 1; 1949 c 150 s 1; 1949 c 388 s 1-3; 1951 c 155 s 1; 1957 c 540 s 1]

97.41 CONSTRUCTION. Subdivision 1. Any of the provisions of chapters 97 to 102 inconsistent with the existing code of criminal procedure or of penal law shall be effective for the purposes of chapters 97 to 102 only.

Subd. 2. All provisions of chapters 97 to 102 shall be construed as subject to, and not changing or modifying the authority of the commissioner to delegate powers, duties and functions as conferred by sections 84.083 and 84.088.

[1945 c 248 s 1; 1949 c 150 s 2]

97.42 OWNERSHIP OF WILD ANIMALS, AQUATIC VEGETATION. The ownership of wild animals, and of all wild rice and other aquatic vegetation growing in the public waters of the state, insofar as they are capable of ownership, is in the state in its sovereign capacity for the benefit of all its people, and no person shall acquire any property therein, or destroy the same, except as authorized by chapters 97 to 102 or sections 84.09 to 84.15 and Laws 1939, Chapter 231.

[1945 c 248 s 1; 1949 c 150 s 3]

97.43 GENERAL RESTRICTIONS. No person shall at any time, take, buy, sell, transport, or possess any protected wild animals except as permitted by Laws 1949, Chapter 150. The legal title to all wild animals shall remain in the state, except where it has been lawfully acquired by permission of Laws 1949, Chapter 150, and the title to any wild animals lawfully acquired shall revert to the state whenever any law relating to its sale, transportation or possession is violated.

[1945 c 248 s 1; 1949 c 150 s 4]

97.44 POSSESSION RESTRICTED. Subdivision 1. No person shall possess within this state any wild animal which has been unlawfully taken, bought, sold or possessed outside of the state, or unlawfully shipped therefrom into the state.

Subd. 2. No person shall possess within this state any protected wild animal except during the open season and for five days thereafter, without having obtained permission from the commissioner or his authorized agent so to do, in such form as the commissioner may prescribe, and when so permitted, they may be retained indefinitely, subject, however, to the exceptions contained in section 100.27, subdivision 6, and section 102.23.

Subd. 3. Wild animals lawfully taken, bought, sold or possessed outside this state may be brought or shipped into this state, whether taken in or out of the period prescribed for the open season in Minnesota, and possessed during the periods prescribed in subdivision 2 upon obtaining the commissioner's permit.

Subd. 4. No person except the commissioner or his agents shall place or store or receive or accept for storage in a commercial cold storage warehouse, any protected wild animals except fish or furs lawfully taken. Protected wild animals lawfully taken and possessed may be stored in refrigerators or cooling rooms in butcher shops or in locker plants or other places not classified as commercial cold storage warehouses, but all packages of protected wild animals so stored shall be plainly marked in ink, showing the name and address of the owner, the number of license under which they were taken, and the number and species therein.

Subd. 5. Protected wild animals may be disposed of by gift, without consideration, and when so disposed of, may be possessed or transported without license, provided, if they are transported beyond the boundaries of the county in which the possessor lives, there shall be attached a tag marked in ink, showing the name and address of the owner and the number of the license under which they were taken, or in lieu thereof the possessor shall furnish an affidavit showing the name and address of the donor, but subject to all other restrictions and limitations on possession, transportation and sale imposed by Laws 1949, Chapter 150.

Subd. 6. Mounted specimens of wild animals, deer horns, tanned hides, and dressed furs lawfully taken, are excepted from the provisions of this section.

Subd. 7. Licensed tanners, upon receipt of any raw beaver or muskrat hides or pelts, shall immediately procure a tag or seal, as prescribed by the commissioner, which tag or seal shall be attached to the hide or pelt and remain thereon during the entire process of tanning and dressing, and so long as retained in the possession of the tanner.

[1945 c 248 s 1; 1949 c 104 s 1; 1949 c 150 s 5]

97.45 TRANSPORTATION RESTRICTED. Subdivision 1. No person shall transport any wild animals taken, bought, sold or possessed in violation of chapters 97 to 102.

Subd. 2. Any person may transport within the state, or from a point within to a point without, during the open season, any protected wild animals which may be lawfully sold, except as otherwise expressly prohibited.

Subd. 3. Any resident, except agents or employees of a common carrier while engaged in the performance of their duties, may carry with him in any vehicle or as baggage on a common carrier, to any place within the state, wild animals, including undressed game birds and dressed or undressed fish, lawfully in his possession and subject to all other applicable restrictions, and common carriers may transport such wild animals as baggage within the limits prescribed.

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

Subd. 5. A resident may transport by common carrier dressed or undressed fish lawfully taken and possessed by him during the open season for taking such fish, to any point within the state, consigned to himself only.

Subd. 6. (1) A licensed nonresident may transport by common carrier to a point within or without this state, in any one season, one shipment containing not more than 25 pounds of undressed fish, except that rough fish may have the heads removed, or one fish of any size, or containing not more than 15 pounds of filleted or dressed game fish, packaged as hereinafter expressly authorized, which have been lawfully taken by him in this state. A coupon designed to carry out the purposes of this subdivision may be issued for each nonresident fishing license, and such shipping coupon shall be cancelled by the shipping clerk of the carrier to whom the shipment is first delivered, in a manner prescribed by the commissioner. Such nonresident is further authorized to carry with him in any vehicle or on a common carrier to any point within or without the state, the limit of undressed fish which he is authorized to possess within the state, except that rough fish may have the heads removed, except that bullheads may be so transported in either a dressed or undressed condition or, in the alternative to such transportation of undressed fish, filleted or dressed fish may be so carried with him, not exceeding the possession limit, nor consisting of more than 15 pounds, if the container is prepared as hereinafter expressly authorized.

(2) Filleted or dressed game fish may be transported only if the container bears the name and license number of the shipper, the name of the person preparing the container for shipment, his license number as issued under Minnesota Statutes, section 98.46, subdivision 5, and the number and species of fish contained, and the net weight thereof.

(3) Each licensee authorized to prepare dressed game fish for shipment shall maintain a permanent record of the name, address and license number of each licensed fisherman making such shipment, the name and address of the consignee, the number and species of fish contained in the shipment, the net weight thereof, and such records shall be available to inspection by state game wardens at all times.

Subd. 7. Any nonresident, except agents and employees of common carriers while engaged in the performance of their duties, may transport by any means, consigned to himself only, to any point within or without this state, not to exceed the number of undressed game birds which he is entitled to possess at any one time, and one deer, lawfully taken and possessed within this state, provided they are accompanied by appropriate coupons to be detached from the non-resident hunting licenses. Common carriers are hereby permitted to carry such wild animals as baggage.

Subd. 8. Wild animals, lawfully taken and possessed in Canada and lawfully entered into the state, may be shipped from Minnesota to any point within or without the state by either residents or nonresidents provided all such shipments shall bear such shipping coupons as would be required if the shipment originated from the province where the animals were taken. Game fish lawfully taken and possessed in Canada, may be brought into the state for the purpose of filleting and packing, and may be transported to any point within or without the state.

Subd. 9. Undressed game birds, lawfully taken and possessed in adjacent states, may be brought into the state, and may then be shipped by common carrier to any point within the state by residents of this state, or by nonresidents to any point without the state, provided each such shipment shall be tagged or sealed by a state game warden in the manner prescribed by the commissioner, and shall be accompanied by a license coupon if such coupon would be required if the shipment originated in the state where the animals were taken. Licensed residents may ship

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game birds or one fish lawfully in their possession to any point within or without the state to any person upon procuring a permit so to do from the commissioner or his authorized agent under such regulations as the commissioner may prescribe.

Subd. 10. All wild animals, while in transit, or at their destination after shipment, shall be deemed in the possession of the shipper.

Subd. 11. No shipment of small or big game, under subdivisions 4 or 7, shall be accepted by any carrier until the agent thereof shall have examined the license of the shipper, who shall sign his name in ink to each section of one of the coupons attached to his license, in the presence of the agent, who shall also sign his name in ink thereto. Coupons detached from the license when so presented shall be void.

Subd. 12. All shipments of protected wild animals by common carrier, or carried as baggage, shall have attached license coupon tags, properly filled out, when required by Laws 1949, Chapter 150, or when coupon tags are not required, a statement signed by the licensee showing his name, address and license number and the number and species of wild animals contained, and if fish are contained, the number of pounds thereof.

Subd. 13. No protected wild animals, taken in any other state or country, except big and small game, shall be transported through this state, except by common carrier, during the closed season for the taking of such animals in Minnesota, or in excess of the possession limit as prescribed by chapters 97 to 102, unless the same are tagged, sealed, or otherwise marked as prescribed by the commissioner.

Subd. 14. All wild animals being transported shall be made available to full inspection by any game warden upon his demand, and in the absence of the licensee, any receptacle or container may be opened by such warden by such means as is reasonably necessary for the purpose of inspection and counting. The way bill or receipt issued by any common carrier to a shipper shall specify the number and species of wild animals so shipped.

157 C 363 w | Subd. 15. No minnow dealer shall transport any minnows beyond the boundaries of the state, except fathead minnows taken from lakes designated by the commissioner as primarily minnow lakes may be transported without the state by any minnow dealer upon payment of a license fee of \$100. Such license to transport shall be issued only to residents of the State of Minnesota.

[1945 c 248 s 1; 1947 c 609 s 2, 3; 1949 c 150 s 6; 1953 c 51 s 1; 1953 c 534 s 1; 1955 c 307 s 1; 1955 c 564 s 1; 1955 c 782 s 1; 1957 c 581 s 1; 1957 c 676 s 1]

97.46 CONFISCATION OF COMMINGLED GOODS. Confiscation of any part of a shipment shall include the entire shipment, and when two or more wild animals of the same or different species are possessed or contained in the same package, bag, crate, box, automobile, airplane, vehicle, room, or other receptacle, or are in any other way mixed or commingled, and one or more thereof are contraband, then the whole shipment or parcel shall be deemed contraband.

[1945 c 248 s 1; 1949 c 150 s 7]

97.47 WANTON WASTE. Except as expressly permitted, no person shall wantonly waste or destroy any usable part of any protected wild animal.

[1945 c 248 s 1; 1949 c 150 s 8]

97.48 COMMISSIONER, GENERAL POWERS. Subdivision 1. The commissioner may extend protection to any species of wild animal in addition to that accorded by chapters 97 to 102, by further limiting or closing open seasons, areas of the state, or by reducing limits with respect to any or all areas of the state, whenever he finds such action necessary to guard against undue depletion or extinction, or to promote the propagation and reproduction of such animals, provided he shall not restrict or prohibit the taking of game fish or any species thereof by angling or spearing through the ice so as to close at any given time not more than 50 percent of the named lakes or streams of any county, nor shall he limit or close any regular statutory season for the taking of any species of game fish by spearing through the ice in any designated waters unless in the same order he limits or closes the next following regular statutory season for the taking of said species by angling in the same waters in the same proportion, nor shall he reduce the limits for the taking or possession of such species by spearing through the ice in any designated waters during any regular statutory season therefor below the limits prescribed for the taking or possession of said species by angling in the same waters during the next following regular statutory season therefor.

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Subd. 2. The commissioner is authorized to enter into contracts with North and South Dakota, Wisconsin and Iowa, relating to the removal of rough fish in boundary waters between Minnesota and those states, and providing for the letting of contracts to remove such fish, and for the inspection and division of proceeds of such work, and for regulating matters relating to such fishing in such boundary waters, provided, if no such agreement can be made, the commissioner may remove rough fish from such boundary waters in the same manner as he is authorized to remove them from any of the waters of this state.

Subd. 3. The commissioner is authorized and shall have the power to make any and all regulations for the taking, possession and transportation of wild animals, fish and mussels from any boundary waters between Minnesota and adjacent states, and from international waters.

Subd. 4. The commissioner is authorized to take rough fish, turtles, ciscoes, herring, whitefish and smelt from any of the waters of this state by means of day labor, contract or permit through the use of seines, nets, or any other devices, under such rules, regulations, contracts or permits as he shall prescribe. All rough fish, turtles, ciscoes, herring, whitefish and smelt so removed by the commissioner shall be disposed of in such form and in such manner as he, by regulation, contract or permit shall prescribe. The provisions of this subdivision shall supersede the provisions of Laws 1939, Chapter 431, as amended, so far as applicable to the letting or making of contracts for taking or sale of fish.

Subd. 5. The commissioner is authorized to close any areas of the state to mussel fishing and to prescribe any other rules, regulations or orders relating to the taking thereof, but not more than 50 percent of the mussel producing waters of the state shall be closed during the open season at any one time.

Subd. 6. The commissioner is authorized to close any waters of the state to the taking of minnows for commercial purposes if a survey discloses that such action is necessary to guard against undue depletion or extinction.

Subd. 7. The commissioner shall be charged with the execution and the enforcement of all the laws of this state relating to wild animals.

Subd. 8. The commissioner shall do all things deemed by him desirable in the preservation, protection and propagation in their natural state, and artificially, of all desirable species of wild animals.

Subd. 9. The commissioner shall dispose of or destroy, as he deems advisable, undesirable or predatory wild animals.

Subd. 10. The commissioner shall acquire by purchase, gift, exchange, or other arrangement, wild animals or their eggs, for breeding or stocking purposes.

Subd. 11. The commissioner shall set aside and reserve for any period he deems advisable, any waters of the state, in the aid of propagation and protection of any wild animals.

Subd. 12. The commissioner shall acquire by gift, lease, purchase, or condemnation in the manner prescribed under section 117.20, in the name of the state, any personal or real property required for game farms or hatcheries, and to construct, maintain, operate and alter suitable buildings or other works thereon.

Subd. 13. The commissioner shall acquire by gift, lease, easement, purchase, or condemnation in the manner prescribed under section 117.20, in the name of the state, lands or any interest in lands suitable and desirable for establishing and maintaining public hunting grounds, game refuges and food and cover planting areas, and to make all improvements thereon deemed by him advisable, provided that not more than one-third of any area so acquired for a public hunting grounds or game refuge shall be established as a refuge.

Subd. 14. The commissioner shall sell or dispose of any land acquired for public hunting grounds and found to be not necessary or suitable therefor, at a price not less than that for which they were purchased, or to exchange such lands for lands of equal value, which are suitable for rounding out, enlarging, filling in, or adding to areas upon which public shooting grounds have been established, providing all such sales or exchanges shall first receive the approval of the executive council.

Subd. 15. The commissioner shall acquire by gift, lease, purchase, or condemnation in the manner prescribed by section 117.20, in the name of the state, and to maintain from the game and fish fund, parking or camping areas of not to exceed five acres, adjacent to public waters to which the public theretofore had no access or where the access is inadequate and upon which the public has a right to hunt and fish, and such easements and rights of way as may be

required to connect such areas with public highways, provided, no acquisition costing over \$1,000 shall be made without first obtaining the approval of the executive council, and provided further that the authority herein granted shall not extend to lakes completely surrounded by lands owned and maintained for the purpose of conducting an educational or religious institution, or to lakes which are unmeandered or which contain less than 200 acres within the meander lines; provided, that in the case of any lake containing less than 200 acres but not less than 150 acres within the meander lines, the authority herein granted shall apply where the lands, easements, or rights of way required are acquired by gift or purchase but not by condemnation.

Subd. 16. The commissioner shall rescue, transfer, or otherwise dispose of or sell fish found in waters, which by reason of their shallowness, will endanger such fish to smothering in winter, or by published order, or in cases of emergency by notice posted conspicuously around the shores upon any such waters, to authorize the taking of fish in any quantity and in any manner, except with the use of seines, hoop nets, fyke nets, or explosives, by residents of the state of Minnesota, for personal use only, except that bullheads and rough fish may be sold.

Subd. 17. The commissioner shall prohibit the taking of turtles during such period as he may deem necessary, from any waters of the state in which he is conducting operations in aid of the fish propagation program.

Subd. 18. The commissioner shall prescribe rules and regulations for the harvesting and possession of wild rice.

Subd. 19. The commissioner shall collect, compile, disseminate and publish statistics, bulletins and information germane to conservation.

Subd. 20. The commissioner shall adopt reasonable rules and regulations designed to encourage organizations of local sportsmen to engage in the propagation of game fish by use of rearing ponds; prescribe reasonable methods for the lawful acquisition of brood stock for such ponds from the public waters by seining; prescribe reasonable rules and regulations for the ownership and use by such sportsmen's organizations of seines and other equipment to be used for rearing pond propagation; and prescribe regulations for the planting of the young fish so produced in the public waters of the state, giving first consideration to the needs of the community in which the same are produced and the desires of the organizations operating such rearing ponds.

Subd. 21. The commissioner may issue permits to take turtles or frogs at any time with the use of artificial lights in any waters designated in such permits.

Subd. 22. The commissioner shall have the power to authorize the maintenance and operation of private fish hatcheries under such rules and regulations as the commissioner shall prescribe.

Subd. 23. If the date of the opening of the season for the taking of any protected wild animals, except those under federal regulations as prescribed by law, falls on any day other than a Saturday, the commissioner of conservation may designate the nearest Saturday to said date as the opening day of the season.

[1945 c 248 s 1; 1947 c 469 s 1; 1947 c 609 s 4-6; 1949 c 150 s 9; 1949 c 407 s 1; 1949 c 671 s 1; 1951 c 185 s 1; 1951 c 349 s 1; 1951 c 572 s 1; 1953 c 171 s 1; 1953 c 280 s 1; 1955 c 306 s 1; 1955 c 558 s 1; 1957 c 582 s 1]

97.481 ACQUISITION OF WILDLIFE LANDS. The commissioner of conservation is hereby authorized and empowered to acquire, in the name of the state, by gift, lease, purchase and transfer of state lands, any such wildlife lands, such as marsh or wetlands, and the margins thereof, including ponds, small lakes and stream bottom lands, which he finds desirable to acquire in the interests of water conservation relating to wildlife development programs, and, he may also acquire for this purpose from any state agency, itself included, lands now in state ownership or tax-forfeited which are suitable for wildlife purposes, and when such lands are so acquired, he is authorized to develop the same in the interest of wildlife, recreational or public hunting areas as he shall deem desirable. No such lands shall be acquired until first approved for such purchase, or lease, by a majority of the members of the board of county commissioners in the counties where the land to be purchased, or leased, is located. In the counties in which a soil conservation district is organized the supervisors will act as counsellors to the board of county commissioners regarding the best utilization and capability of the land proposed for purchase, including the questions of drainage and flood control. The commis-

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sioner in the purchase of such wetlands must recognize that when a majority of land owners, or owners of a majority of the land in the watershed, petition for a drainage outlet, that the state should not interfere, or unnecessarily delay such drainage proceedings when such proceedings are conducted according to the Minnesota Drainage Code. In no case should state lands, so purchased, or leased, be used to produce crops which are in a surplus as defined by the federal government unless such crops are needed to sustain wildlife. No lands described herein shall be acquired unless there is acquired simultaneously therewith a right-of-way or easement from said lands to a public road so as to make entry upon said lands available to the public.

[1957 c 644 s 1]

97.482 SURCHARGE ON SMALL GAME HUNTING LICENSES APPROPRIATED. To provide funds for the purpose of carrying out the provisions of sections 97.481 to 97.484, there is hereby imposed upon all small game hunting licenses a surcharge of \$1, which shall be added to such license fee, and which surcharge shall be free from any commissions and so stated on the back of the small game hunting licenses, together with the following statement: "This \$1 surcharge is being paid by sportsmen for the acquisition and development of wildlife lands."

[1957 c 644 s 2]

97.483 WILDLIFE ACQUISITION FUND ESTABLISHED. There shall be established in the state treasury a separate fund known as the "Wildlife Acquisition Fund" into which the proceeds derived from the surcharge shall be deposited and all moneys so deposited shall be used by the commissioner of conservation for the purposes of sections 97.481 to 97.484, in accordance with appropriations made by the legislature.

[1957 c 644 s 3]

97.484 ASSESSMENTS TO BE PAID FROM FUND. Any assessments against the State of Minnesota under the provisions of Minnesota Statutes, Section 106.381, or Section 106.672, shall be paid from moneys in the Wildlife Acquisition Fund herein created on all such lands or properties heretofore or hereafter acquired for wildlife habitat.

[1957 c 644 s 4]

NOTE: Sections 97.481 to 97.484 are in effect until December 31, 1962. [1957 c 644 s 5]

97.485 FISH STOCKING PROHIBITED WHERE PUBLIC DOES NOT HAVE ACCESS. The department of conservation or any other state agency shall not stock, restock or plant fish in any waters to which the public is denied free access and use.

[1957 c 662 s 1]

97.49 FUNDS. Subdivision 1. All unexpended balances and moneys hereafter received from licenses of any kind issued by the commissioner on behalf of the division, together with all receipts from fines, sale of contraband or property of any kind, including wild animals, under the control of the division, reimbursements of expenditures or contributions to the division and all other moneys accruing to the state by virtue of chapters 97 to 102, shall be credited by the state treasurer to a special fund known as the game and fish fund, and all such moneys are hereby annually appropriated for the maintenance and conduct of the activities of the division, subject, however, to any special provisions which may be contained from time to time in appropriation acts.

Subd. 2. Not less than 60 percent of all moneys received from resident fishing licenses shall be made available for the purpose of fish propagation, 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, but nothing in subdivisions 2, 3, and 4 shall preclude the commissioner from expending greater sums annually than the percentage of receipts therein dedicated to the purposes contemplated in those subdivisions.

Subd. 3. Not less than 50 percent of the moneys received from the sale of licenses to take small and big game by hunting and trapping, together with all income received from the sale of timber, hay stumpage, right of way leases, home site and resort leases, or other special use permits of lands acquired for public hunting grounds and game refuges, shall be used for the acquisition and maintenance of public hunting grounds, game farms and game refuges, and the improvements of natural propagation and breeding grounds, or other game conservation uses; provided, however that a sum equal to 35 percent

of the gross receipts from all special use permits of these lands or 15 cents per acre on purchased land actually used for public hunting grounds and game refuges shall be paid out of the game and fish fund annually to the county in which said lands are located, to be distributed by the county treasurer among the various funds of the county, the respective towns and school districts wherein such grounds and refuges lie, on the same basis as if the payments were received as taxes on such lands, payable in the current year, but this provision shall not apply to tax-forfeited or state trust fund lands or any other state lands not purchased for game refuge and public hunting ground purposes. The county board shall elect for the ensuing year whether to receive the 35 percent of the gross receipts or the 15 cents per acre as above provided and shall so notify the commissioner of conservation on or before January 1st of each year.

Subd. 4. All moneys received from the sale of fish and turtles taken under rough fish removal operations shall be continuously available for continuing the work of rough fish removal.

Subd. 5. All fines and forfeited bail collected in any prosecution under any provision of Chapters 97 to 102, 348, Sections 84.09 to 84.15 and Laws 1939, Chapter 231, or any other law relating to wild animals or to wild rice or other aquatic vegetation shall be paid to the treasurer of the county where the prosecution was had. One-half of such receipts shall be transmitted by that officer to the commissioner, who shall pay the same into the state treasury to be credited to the game and fish fund. The remaining half shall be credited to the general revenue fund of the county, but the board of county commissioners of any county may, by resolution, direct the payment of all such funds to the state, and where such county action has been taken, the cost of keeping and maintaining prisoners for violating any such law shall be reimbursed to the county from the game and fish fund upon monthly itemized statements certified by the county auditor to the commissioner.

Subd. 6. In the case of any county having over 39,000 and less than 42,000 inhabitants according to the 1950 federal census, any sums to be distributed by the county treasurer in accordance with subdivision 3 shall be distributed only among the various funds of the respective towns and school districts wherein such grounds and refuges lie on the same basis as if payments were received as taxes on such lands payable in the current year would be distributed among said funds.

[1945 c 248 s 1; 1949 c 150 s 10; 1953 c 336 s 1; 1953 c 741 s 38; 1955 c 393 s 1]

97.50 POLICE POWERS. Subdivision 1. The commissioner, director, game refuge patrolmen, and game wardens are hereby authorized and empowered to execute and serve all warrants and processes issued by any justice of the peace or magistrate or by any court having jurisdiction under any law relating to wild animals, wild rice, use of water, conservation, protection or control of public waters, state-owned dams or other works affecting public waters or water pollution, in the same manner as any constable or sheriff may do so, and to arrest, without a warrant, any person detected in the actual violation of any provisions of chapters 84, 97 to 102, 105 and 106, and to take such person before any court in the county in which the offense was committed and make proper complaint.

Subd. 2. The commissioner, director, game refuge patrolmen, and game wardens are hereby authorized and empowered to enter upon any lands within the state for the purpose of carrying out the duties and functions of the division, or to make investigations of any violations of the game and fish laws, and in aid thereof to take affidavits upon oath administered by them, and to cause proceedings to be instituted if proofs at hand warrant it.

Subd. 3. The commissioner, director, game refuge patrolmen, and game wardens are hereby authorized and empowered to enter and inspect any commercial cold storage warehouse and any hotel, restaurant, ice house, locker plant, butcher shop or other plant or building used for the storage of dressed meats, game or fish, for the purpose of determining whether wild animals are kept or stored therein in violation of chapters 97 to 102; to examine and inspect the books and records of all persons, firms or corporations which they have reason to believe have violated the laws relating to wild animals; and to open, enter and examine all camps, vessels, boats, wagons, automobiles, airplanes, or other vehicles, cars, stages, tents, suitcases, valises, packages, crates, boxes and other receptacles and places where they have reason to believe wild animals unlawfully taken, or possessed, are to be found.

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Subd. 4. The commissioner, director, game refuge patrolmen, and game wardens are hereby authorized and empowered to enter and inspect at all reasonable times the premises whereon is being conducted any business or activity requiring a license under provisions of chapters 97 to 102.

Subd. 5. The commissioner, director, game refuge patrolmen, and game wardens are hereby authorized and empowered to seize and confiscate in the name of the state, any wild animals taken, bought, sold, transported or possessed in violation of chapters 97 to 102, and to seize, confiscate and dispose of all guns, firearms, bows and arrows, nets, boats, lines, rods, poles, fishing tackle, lights, lanterns, snares, traps, spears or dark houses used, by the owner or any other with his knowledge, in unlawfully taking or transporting such wild animals. Articles which have no lawful use may be summarily destroyed. All other articles may be retained for use of the division, or sold at the highest price obtainable, in the manner prescribed by the commissioner.

Subd. 6. The commissioner, director, game refuge patrolmen, and game wardens shall seize all motor vehicles, trailers, and airplanes, used in violation of section 100.29, subdivisions 10 or 11, and all boats, motors and motor boats used or possessed in violation of section 98.45 with respect to the licenses, operations, or species of fish specified in section 98.46, subdivisions 10, 11, 12 and 13, or in violation of sections 102.26, 102.27, or 102.28, or in violation of any order, rule, or regulation of the commissioner relating thereto, and hold them, subject to the order of the district court of the county in which the offense was committed. Such property so held shall be confiscated after conviction of the person from whom the same was seized, upon compliance with the following procedure: the commissioner, director, or his agents, shall file with the court a separate complaint against the property, describing the same and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint shall be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person so arrested shall be acquitted, the court shall dismiss the complaint against the property and order the same returned to the persons legally entitled thereto. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right or title or interest in, or lien upon, any of such property, and to persons unknown claiming any such right, title, interest or lien, describing the property and stating that the same was seized and that a complaint against the same, charging the specified violation, has been filed with the court, and requiring such persons to file with the clerk of the court their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon any such property, within ten days after the service of such order as herein provided, and notifying them in substance that if they fail to so file their answer within that time, the property will be ordered sold by the commissioner or his agents. The court shall cause the order to be served upon any person known or believed to have any right, title, interest or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed as and within the time prescribed, the court shall, upon affidavit by the clerk of the court, setting forth such fact, order the property sold by the commissioner or his agents, and the proceeds of the sale, after deducting the expense of keeping the property and fees and costs of sale, paid into the state treasury, to be credited to the game and fish fund. If answer is filed as and within the time herein provided, the court shall fix a time for hearing, which shall be not less than 10 nor more than 30 days after the time for filing answer expires. At the time so fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions. If the court shall find that the property, or any part thereof, was used in any such violation as specified in the complaint, he shall order the property so unlawfully used, sold as herein provided, unless the owner shall show to the satisfaction of the court that he had no notice or knowledge or reason to believe that the property was used or intended to be used in any such violation. The officer making any such sale after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that such property was being used or was intended to be used for or in connection with any such violation as specified in the order of the court, and shall pay the balance of the proceeds into

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the state treasury to the credit of the game and fish fund. Any sale under the provisions of this section shall operate to free the property sold from any and all liens thereon, and appeal from such order of the district court will lie to the supreme court as in other civil actions. At any time after seizure of the articles specified in this subdivision, and before the hearing herein provided for, the property shall be returned to the owner or person having a legal right to possession thereof, upon execution by him of a good and valid bond to the State of Minnesota, with corporate surety, in the sum of not less than \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of seizure.

Subd. 7. Upon complaint made to any magistrate, who has authority to issue warrants in criminal cases, by any person that he knows or has good reason to believe that any wild animal taken, bought, sold, transported or possessed contrary to the provisions of chapters 97 to 102, or any article declared contraband therein, is concealed or illegally kept in any home, building or other receptacle, not otherwise authorized herein to be entered, inspected and searched, such magistrate shall issue a search warrant and cause a search to be made of such place, and may cause any such home, building or other receptacle to be entered, broken open and examined. Property seized under such warrant shall be safely kept under the direction of the court or magistrate so long as necessary for the purpose of being used as evidence on any trial, and thereafter disposed of as otherwise provided.

Subd. 8. Courts in counties contiguous to boundary waters, and law enforcement officers of the division, shall have jurisdiction over the entire boundary waters. Concurrent jurisdiction of the courts and administrative officers of North Dakota, South Dakota, Iowa, Wisconsin, and Michigan, over all such boundary waters, is hereby recognized.

[1945 c 248 s 1; 1947 c 609 s 7; 1949 c 150 s 11; 1955 c 93 s 1; 1957 c 617 s 1]

97.51 REWARDS. Rewards may be paid by the commissioner to others than salaried game wardens or peace officers, for information leading to the arrest and conviction of any person for violating provisions relating to moose, in the sum of \$50; for violating provisions relating to deer, \$25; for violating provisions relating to other wild animals, \$10.

[1945 c 248 s 1; 1949 c 150 s 12]

97.52 ENFORCEMENT. Subdivision 1. County attorneys, constables and all other peace officers are hereby required, and it is made their duty, to enforce the provisions of chapters 97 to 102.

Subd. 2. No person shall wilfully hinder, resist, or obstruct the commissioner, director, game wardens, agents or other employees of the division in the performance of their official duties, or refuse to submit any wild animals, firearms in the field or any motor vehicle, boat, aircraft or other conveyance used therein, and licenses in his possession to inspection.

Subd. 3. In addition to criminal prosecution, a civil action in the name of the state to recover damages resulting from violation of subdivision 2, and to enjoin the continuance thereof, may be instituted against any person violating that subdivision, by the attorney general, on the request of the commissioner.

[1945 c 248 s 1; 1949 c 150 s 13; 1957 c 579 s 1]

97.53 PUBLICATION OF ORDERS AND LAWS. Subdivision 1. As soon as practicable after each legislative session, the commissioner, under the direction of the attorney general, shall make a compilation of the laws relating to wild animals, brought up to date and properly indexed. This compilation shall be printed in pamphlet form of pocket size, and 50 copies distributed to each senator, 25 copies to each representative, and ten copies to each county auditor. Not more than 10,000 copies in addition shall be printed for general distribution. The commissioner shall also prepare syllabi of the laws and deliver to county auditors a sufficient supply to furnish one copy to each person procuring a hunting, fishing, or trapping license.

Subd. 2. All orders and all rules and regulations promulgated by the commissioner or the director which affect matters in more than three counties, shall be published once in a qualified legal newspaper in Minneapolis, St. Paul and Duluth. All such orders, rules and regulations not affecting more than three counties shall be published once in a qualified legal newspaper in each county affected. No order, rule or regulation shall be effective until seven days after such publica-

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tion, and when so executed and published, shall have the force and effect of law, and violation shall entail the same penalties as though such order, rule or regulation had been duly adopted by the legislature.

[1945 c 248 s 1; 1949 c 150 s 14]

97.54 PROSECUTIONS AND BURDEN OF PROOF. Subdivision 1. No prosecution under chapters 97 to 102 shall be commenced more than three years after commission of the offense complained of.

Subd. 2. In any prosecution, under the provisions of chapters 97 to 102, the burden of establishing the fact that animals alleged to have been unlawfully taken, bought, sold, transported or possessed, were domesticated or were reared in a private preserve, raised in a private fish hatchery, taken for scientific purposes, or lawfully taken without this state, shall rest upon the defendant.

Subd. 3. Possession of wild animals more than five days after the close of the season, or in excess of the limits prescribed herein, shall be presumptive evidence that the same were unlawfully taken, except as to those tagged, sealed or identified as provided by chapters 97 to 102.

[1945 c 248 s 1; 1949 c 150 s 15]

97.55 VIOLATIONS, PENALTIES. Subdivision 1. Unless a different penalty or punishment is specifically prescribed, a person who takes, buys, sells, transports or possesses any wild animal in violation of any provisions of chapters 97 to 102, or who aids, or assists in such violation, or knowingly shares in the proceeds thereof, or who fails to perform any duty or comply with any of the requirements or provisions imposed by chapters 97 to 102, or who violates any duly adopted order, rule or regulation of the commissioner or director, or who attempts to do so, is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than \$10 nor more than \$100 for the first offense, not less than \$25 nor more than \$100 for subsequent offenses, committed within three years of the former, or by imprisonment in the county jail for not less than 30 days nor more than 90 days. Each wild animal taken, bought, sold, transported or possessed in violation of law shall constitute a separate and distinct offense, provided that an acquittal in any case shall constitute a bar to any subsequent prosecution upon a charge of a like offense based upon another animal involved in the same transaction.

Subd. 2. The punishment for violating any of the provisions of law or commissioner's order, relating to commercial fishing, shall be a fine of not less than \$50 nor more than \$100, or imprisonment in the county jail for not less than 60 days nor more than 90 days.

Subd. 3. Except where it becomes a gross misdemeanor under subdivision 5, a person who takes, transports, or possesses deer in violation of any of the provisions of chapters 97 to 102, shall be punished by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail for not less than 30 days nor more than 90 days.

Subd. 4. Violation of any provision relating to game and fur farms, to unlawfully taking or possessing wild animals on state parks, to hunting deer with bow and arrows, to hunting with prohibited types of guns or ammunition, or of section 101.42, subdivisions 11 and 12, relating to certain prohibited methods of fishing, shall be punishable by a fine of not less than \$50 nor more than \$100, or by imprisonment in a county jail for not less than 30 days nor more than 90 days.

Subd. 5. Any person convicted of violating any provisions of chapters 97 to 102, which are defined as gross misdemeanors, shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the county jail for not less than 90 days nor more than one year or by both such fine and imprisonment.

Subd. 6. Every person who shall falsely impersonate a game warden or a game refuge patrolman or other officer acting by or under authority of laws relating to wild animals, or who shall falsely claim to have special authority under those laws to perform any act affecting the rights or interests of another, or who, without authority, shall assume any uniform or badge by which such an officer or person is lawfully distinguished, and in such assumed character shall do an act purporting to be official whereby another is injured or defrauded shall be guilty of a gross misdemeanor.

Subd. 7. Every person who violates any provision relating to set guns or swivel guns shall be guilty of a gross misdemeanor.

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Subd. 8. Every person who shall unlawfully take, buy, sell, transport, or possess beaver, marten, otter, fisher, moose, elk or caribou shall be guilty of a gross misdemeanor.

Subd. 9. Every person violating the provisions of section 100.29, subdivisions 10 or 11, relating to using an artificial light to locate wild animals, while in possession of a firearm capable of killing big game animals, or knowingly transporting a big game animal illegally taken, or provisions relating to buying or selling deer or buying fur bearing animals or raw furs shall be guilty of a gross misdemeanor.

Subd. 10. Every person violating the provisions of section 100.29, subdivision 6, relating to hunting while visibly intoxicated, under the influence of narcotics, or who is an habitual user of narcotics shall be guilty of a gross misdemeanor.

Subd. 11. Any person making a false statement in any affidavit given in connection with a game law violation or in any application for any license authorized to be issued under chapters 97 to 102 shall be guilty of a misdemeanor. Any license agent who knowingly ante-dates a game and fish license or issues a game and fish license to a person whom he knows is not entitled to such license shall be guilty of a misdemeanor.

[1945 c 248 s 1; 1947 c 609 s 8; 1949 c 150 s 16; 1951 c 274 s 1, 2; 1957 c 533 s 1]

97.56 REMOVAL OF BEAVER FROM STATE-OWNED LANDS. In any county in the state where the board of county commissioners shall have unanimously requested him to do so, the commissioner of conservation shall take necessary steps to remove beaver, at state expense, from state owned lands located in that county.

[1953 c 633 s 1]

97.57 DESTRUCTION OF BEAVER DAMS. In any county with unanimous consent of the county board of commissioners, and approval of the land owner, the department of conservation shall direct the destruction of any beaver dam and removal of beaver from any waterway, stream, or ditch where drainage is being impaired. All state parks, state game refuges, and federal game preserves are excluded from this provision.

[1953 c 633 s 2]

97.61 GAME WARDEN DEFINED. Whenever used in sections 97.61 to 97.72 "Game Warden" means the persons referred to and employed pursuant to the provisions of Minnesota Statutes, Section 97.50, and all acts amendatory thereof and supplemental thereto, their chief supervisor and all assistant supervisors, whose salaries or compensation is paid out of funds of the state of Minnesota.

[1955 c 679 s 1]

97.62 GAME WARDENS RETIREMENT ASSOCIATION. There is hereby established a Game Wardens Retirement Association, the membership of which shall consist of game wardens. Every game warden who is employed by the state of Minnesota, as such, on July 1, 1955, and every person employed in that capacity thereafter, shall be a member of the association so long as actively employed in such capacity. Each game warden while in the service of the department of conservation shall pay a sum equal to seven percent of his monthly salary, not to exceed a deduction of \$28 per month, which amount shall be deducted monthly by the commissioner of conservation who shall cause the total amount of said monthly deductions to be paid to the state treasurer, and shall cause a detailed report of all monthly deductions to be made each month to the secretary of the association. In addition thereto, there shall be paid out of game and fish funds, monthly, by the commissioner of conservation a sum equal to one percent of the total amounts received from licenses as referred to in the provisions of Minnesota Statutes, section 97.49, subdivision 1, the same to be credited to the fund created by section 97.64. All moneys received by said association shall be deposited by the state treasurer in the Game Wardens Retirement Fund created by section 97.64. Out of said fund shall be paid the benefits and annuities hereinafter provided, and the expenses in connection with the administration, maintenance, and protection of said fund.

[1955 c 679 s 2; 1957 c 881 s 1]

97.63 OFFICERS, MEMBERSHIP, DUTIES. Subdivision 1. The officers of this association shall consist of the chief warden of the division of game and fish, who shall be president, the state treasurer, who shall be ex-officio treasurer, and a secretary, who shall be a member of the association, to be chosen by the membership thereof for a term of two years. These officers shall administer the provisions of sections 97.61 to 97.72, and may make such rules and regulations therefor, not

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inconsistent herewith, as may be necessary for such purposes. The general bond of the state treasurer shall cover all liability for his acts as treasurer, and no additional bond shall be required.

Subd. 2. All moneys of the association received by the treasurer pursuant to the provisions of sections 97.61 to 97.72 shall be set aside by him in the state treasury and credited to the game wardens retirement fund. He shall transmit, monthly, to the secretary of the association, a detailed statement showing all credits to and disbursements from said fund. He shall disburse moneys from such fund only on warrants issued by the state auditor upon vouchers signed by the secretary of the association.

Subd. 3. The secretary of this association shall keep a record of all the acts and proceedings taken by the officers, and he shall keep a complete record of the names of all of the members, their ages and length of service, the salary of each member, together with such other facts as may be necessary in the administration of the provisions of sections 97.61 to 97.72, and for the purpose of obtaining such facts, he shall have access to the records of the various departments of the state. A certified copy of birth certificate or delayed birth certificate shall be *prima facie* evidence of the age of the person named therein. The secretary may receive such salary for his services as is determined by the association not to exceed \$600 per year.

[1955 c 679 s 3]

97.64 RETIREMENT FUND. There is hereby created the game warden retirement fund and all moneys received under the provisions of sections 97.61 to 97.72 shall be credited to said fund. In addition thereto, all moneys any game warden, employed as such on December 31, 1956, has heretofore paid into the state employees retirement fund, whether as a game warden or otherwise, is hereby appropriated therefrom and credited to the fund hereby created and any such game warden shall be allowed service credit hereunder for any such previous service including other state service. The state treasurer shall, upon the passage of sections 97.61 to 97.72, ascertain the amount heretofore paid by game wardens as aforesaid and transfer the amount so paid to the fund hereby created. The public examiner shall audit the fund in the course of his examination of department of conservation records.

[1955 c 679 s 4; 1957 c 881 s 2]

97.65 INVESTMENT OF FUNDS. The state board of investment is hereby authorized to invest such funds of the association as in the judgment of the officers of this association are not needed for immediate purposes, in such securities as are duly authorized or legal investments for savings bank and trust companies, and shall sell any such securities upon request from the officers of the association so as to provide money for the payment of benefits or annuities.

[1955 c 679 s 5]

97.66 ELIGIBILITY TO RETIREMENT. Subdivision 1. Each game warden who shall have been in the employ of the state as such for 25 years or more and during such time shall have paid by salary deductions into the state employees retirement fund, the amount required by law and into the fund hereby created, or into either fund, shall be entitled upon reaching the age of 55 years and separation from state service, to a life annuity of an amount equal to one-half of the highest salary which he received for five consecutive years, except as hereinafter provided, which life annuity shall be paid in monthly instalments during the remainder of his life. A game warden who has completed 20 years of service or more, but less than 25 years, may separate himself from state employment and upon reaching the age of 55 years may receive that proportionate part of his annuity that his years of service bears to 25, except a game warden employed as such on July 1, 1955, who continues his service until he reaches the compulsory retirement age and has not completed 20 years of service, shall receive that proportionate part of his annuity that his years of service bears to 25.

Subd. 2. A member of this association whose employment with the state has been 25 years or more, and during such time has paid, by salary deductions, into the state employees retirement fund, and into the fund created by section 97.64, or either fund, the amount required by law, and who shall have attained the age of 55 years and who continues to serve as a game warden or has served one or more years in excess of 25 years before reaching the age of 55 years, shall be entitled to receive upon retirement an additional sum of \$3 per month for every year of service in excess of 25 years, not exceeding in all, however, 30 years of service nor in any event a total annuity of \$200 a month to be paid to him after retirement.

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Subd. 3. A member of the association who has completed 25 years of service or more prior to reaching the age of 55 years may separate himself from the department with the status of a deferred pensioner, and upon his written application after reaching the age of 55 years shall be eligible to receive the annuity provided in subdivision 1.

Subd. 4. A member of the association not eligible for a service annuity who while an employee of the state becomes diseased or sustains an injury which renders him permanently unfit for the performance of his duties shall be entitled to a disability retirement annuity as hereinafter provided. Such annuity shall begin to accrue upon the expiration of 90 days following the commencement of such disability. Disability as used in this subdivision means total and permanent disability as certified to by at least two licensed and practicing physicians selected by the officers of the association. The member shall submit to an examination by such physicians prior to the determination by the officers of his eligibility for disability benefits and at such intervals thereafter as determined by the officers of the association. If any examination indicates that the annuitant is no longer physically or mentally incapacitated, or is able to engage in a gainful occupation but refuses to work, payments of the disability annuity shall be discontinued.

Should any disability annuitant refuse to submit to a medical examination as herein provided, payments from the fund shall thereupon be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all rights of the member to any disability annuity shall be terminated.

Any member who, after not less than five years of service, becomes disabled and physically unfit to perform his duties as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty, which shall render him physically or mentally unable to perform his duties as such game warden, shall receive disability benefits during the period of such disability equal to 50 percent of the salary of the highest paid game warden, to be paid to such game warden in monthly payments not to exceed \$150 per month. Said disability benefits shall be adjusted July 1 of each year to correspond with the salary of game wardens then in effect.

Any member who shall after not less than five years of service become diseased or injured not in the line of duty and not engaged in game warden work, and the retirement is necessary because the member is unable to perform state game warden duties, the amount of disability retirement annuity shall be equal to 1/45th of the average salary upon which deductions for the retirement fund have been based for the five years preceding such retirement times his years of service, subject to a minimum of 25 percent of such average salary.

Any disability annuitant who is restored to active service shall thereafter have deductions taken from his salary for the retirement fund covering the period of disability and upon subsequent retirement have his retirement allowance based upon all his allowable service including the time he was so disabled.

No member shall receive any disability benefit payments when there remains to his credit unused annual leave or sick leave or under any other circumstances, when during the period of disability there has been no impairment of his salary. If, during the period of disability, the game warden receives compensation benefits, the amount so received shall be deducted from the benefits payable under this section.

Should the annuitant become able to resume other gainful employment and his earnings therefrom be less than \$200, the association shall continue the disability allowance in an amount which when added to his earnings from such employment equals the sum of \$200.

[1955 c 679 s 6; 1957 c 881 s 3, 4]

97.67 ANNUITIES OR BENEFITS; WIDOWS, CHILDREN. The association shall grant annuities or benefits payable from the retirement fund to any member or to any widow or to any child, under 18 years of age, of such member from the time and for the following purposes:

When a service annuitant, disability annuitant, or deferred pensioner, or an active member dies, leaving (1) a widow, who was his legally married wife, residing with him, and who was married to him while or prior to the time he was an active member of the association; and, who, in case the deceased member was a service annuitant or deferred pensioner, was legally married to the member at least one

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year before his retirement; or (2) a child or children, who were living while the deceased was an active member of the association or born within nine months after the decedent had retired.

The widow and child, or children, shall be entitled to an annuity as follows:

(a) To the widow an amount equal to 25 percent of the member's salary at the time of his death; in the case of the death of an annuitant, his widow shall receive one-half of the regular service annuity provided in section 6, subdivision 1, but in either case the amount shall not exceed the sum of \$75 per month for her natural life; but if she remarry, the annuity shall cease as of the date of the remarriage.

(b) To each child the amount of \$20 per month until the child reaches the age of 18 years, to be paid to the widow, if living, for the benefit of the child.

The total amount of the annuity for the widow and children of a deceased member shall not exceed \$150 per month.

[1955 c 679 s 7; 1957 c 881 s 5]

97.68 MEMBERS SEPARATED FROM SERVICE, RIGHTS. If a member of the association is separated from the service after having completed not less than five years of service, under such circumstances that no annuity or other benefits are payable to him or to his widow or to his children, the state treasurer shall return him the sum of \$500, with an additional \$150 for each year of completed service in excess of five. In the event the member is reinstated to duty all moneys paid him shall be returned to the retirement fund within six months from the date of his reinstatement. Failure to do so relieves the association from any liability as to prior years of service credit as to reinstatement date. In case of death of the member any such sums shall be paid to his heirs, executors, or administrators.

[1955 c 679 s 8]

97.69 ANNUITIES OR BENEFITS NOT SUBJECT TO PROCESS. All annuities or benefits which any person shall be entitled to receive under the provisions of sections 97.61 to 97.72 shall not be subject to garnishment, attachment, or levy, and the same shall at all times be exempt.

[1955 c 679 s 9]

97.70 SUABILITY OF ASSOCIATION. The association may sue or be sued in the name of the association, and in all actions brought by or against it, the association shall be represented by the attorney general who shall also be the legal advisor for the association.

[1955 c 679 s 10]

97.71 RESTRICTIONS ON BRINGING OF ACTIONS. No person shall sue for any benefits provided in section 97.66, subdivision 4, unless he shall post a bond in a sufficient amount to defray the cost to the association of defending the action. In the event that the association is sustained the portion of the bond necessary to defray these costs shall be forfeited.

[1955 c 679 s 11]

97.72 STATE EMPLOYEES RETIREMENT ASSOCIATION; INELIGIBLE TO MEMBERSHIP. Each game warden shall, after June 30, 1955, become a member of this association, and thereafter no game warden shall be eligible to membership in the state employees retirement association, and the provisions of said law shall not apply to game wardens.

[1955 c 679 s 12; 1957 c 881 s 6]

97.73 REIMBURSEMENT FOR DEDUCTIONS. All members who have paid deductions on that part of their salary which exceeded \$400 per month between the dates of July 1, 1955, and July 1, 1957, shall be reimbursed from the retirement fund for all such deductions.

[1957 c 881 s 7]

97.81 SAFE USE OF FIREARMS, INSTRUCTIONS IN USING. Subdivision 1. The commissioner of conservation is authorized and directed to publish rules and regulations establishing a state-wide program of instruction in the safe use of firearms.

In the preparation of the regulations, the commissioner shall cooperate with the director of civilian marksmanship of the United States, and the director of civil defense in the state. The director of civil defense is authorized and directed to cooperate with and to assist the commissioner of conservation in the preparation of these regulations. Such regulations shall provide for courses of instruction in every municipality or school district in this state by the commissioner of conserva-

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tion in cooperation with organizations, groups, associations and any private or public corporation or political subdivision of the state, the United States, or any federal agency. The courses shall be conducted at least once annually, or within 30 days of a written request to the commissioner from the municipality or school district to instruct the youth of the state in the commonly accepted principles of safety in hunting and in the handling of all types of common hunting firearms by each youth.

Subd. 2. The commissioner or his authorized agent shall issue a certificate of satisfactory completion of the course of instruction required by Laws 1957, Chapter 537, to any person entitled thereto. The form and content of the certificate shall be as prescribed by the commissioner. To defray the expenses of Laws 1957, Chapter 537, the commissioner shall be paid a fee of fifty cents.

[1957 c 537 s 1]

97.82 DIRECTOR OF HUNTING SAFETY. The commissioner shall appoint a qualified person as a director of hunting safety and shall prescribe his duties and responsibilities. The director of hunting safety shall assist the commissioner in the administration and execution of the provisions of Laws 1957, Chapter 537. The director of hunting safety shall be in the classified service. The commissioner shall provide the director with such assistants and clerical help as the commissioner shall determine necessary. The commissioner with the approval of the county board may appoint one or more deputy directors of hunting safety in each county of the state. Such deputy director shall be responsible to the director of hunting safety to carry out the course of instruction prescribed by the state director, and shall serve on a voluntary basis without compensation. Such county deputy director may appoint such instructors as may be necessary to carry out the purposes of Laws 1957, Chapter 537, who shall serve without compensation.

[1957 c 537 s 2]

97.83 USE OF FIREARMS IN TAKING WILD ANIMALS, WHEN FORBIDDEN. Subdivision 1. After September 1, 1957, it shall be unlawful for any person under the age of 16, unless accompanied by a parent or guardian, to use a firearm for the purpose of taking protected or unprotected wild animals unless he has a certificate of satisfactory completion of the course of instruction herein provided for. However, this section shall not apply to any person using firearms on land owned, or occupied as a usual place of abode, by himself, parent or guardian. No certificate shall be issued to a youth under 12 years of age. The provisions of Minnesota Statutes, Section 98.47, Subdivision 10, and Minnesota Statutes, Section 615.10, are not affected by Laws 1957, Chapter 537, except that it is lawful for any minor participating in the foregoing course of instruction to carry a properly encased and unloaded firearm to and from class and to handle the same during such instruction. Also, such minors shall be allowed participation in organized target shooting programs conducted under qualified adult supervision.

Subd. 2. Any law enforcement officer is authorized and directed in the name of the state to seize and hold any firearm used in violation of Laws 1957, Chapter 537. Firearms so seized shall be tagged with the name and address of the youth from whom it was taken and a receipt given therefor. The firearm shall be placed in the custody of the state game warden in whose area the seizure was made.

Subd. 3. The game warden in whose custody a firearm seized under Laws 1957, Chapter 537 is deposited shall hold the firearm until 90 days after the next commencing date of a firearm training course in the county, and if, during such time, the youth from whom the weapon was taken presents a certificate of completion of the course of instruction provided for in Laws 1957, Chapter 537, the firearm shall be returned to him. However, after the firearm has been held for such time, if no valid demand has been made for the return thereof, the firearm is contraband and forfeited to the state and shall be disposed of as the commissioner may prescribe.

[1957 c 537 s 3]

97.84 SAFETY REVOLVING FUND. The auditor shall establish an account to be known as the safety revolving fund into which shall be credited all fees collected by the state under the provisions of Laws 1957, Chapter 537.

[1957 c 537 s 4]

97.85 FEES. Subdivision 1. For the purpose of defraying the expense of the program within the county, the county director may with the approval of the county board collect a sum not to exceed \$1.50 from each person who has received the courses of instruction herein provided, and shall deposit the money with the

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county treasurer. The county is authorized to pay from the fund thereby created the expenses of the program. Any county is authorized to pay into said fund out of general revenue up to the sum of \$1,000 annually to be used and expended as provided for in this subdivision. In counties having a population in excess of 100,000, the foregoing sum may be increased to the sum of \$2,500. The state director may procure materials and supplies for the counties upon the request of the county director and the same shall be sold to the county without profit to the state. Proceeds from such sale shall be deposited in the safety revolving fund.

c.442 ~~Subd. 2.~~ Subd. 2. The commissioner shall procure insurance against all liability incurred by the deputy county directors and instructors by reason of any claim for bodily injury, death or property damage made upon any such director or instructor by reason of the performance of their duties under Laws 1957, Chapter 537. Such policy of insurance shall contain a waiver of governmental immunity and such immunity shall not be raised as a defense by the insured, the state, or the county.

[1957 c 537 s 5]