

## CHAPTER 97B

### HUNTING

97B.055	Discharging firearms and bows and arrows.	97B.667	Removal of beaver dams and lodges by road authorities.
97B.065	Hunting while under the influence of alcohol or a controlled substance.	97B.715	Pheasants.
97B.066	Chemical testing.	97B.721	License and stamp required to take turkey; tagging and registration requirements.
97B.075	Hunting restricted between evening and morning.	97B.801	Minnesota migratory waterfowl stamp required.
97B.112	Special hunts for youth.	97B.802	Special Canada goose season license required.
97B.211	Hunting big game by archery.	97B.926	Pine marten and fisher zone.
97B.301	Deer licenses and limits.		
97B.655	Taking animals causing damage.		

#### 97B.055 DISCHARGING FIREARMS AND BOWS AND ARROWS.

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Restrictions related to motor vehicle.** A person may not take a wild animal with a firearm or by archery from a motor vehicle except as permitted in this section. An archer in a permitted bow fishing tournament may transport the bow uncased while in an electric motor-powered boat.

*[For text of subds 3 and 4, see M.S.1996]*

**History:** 1997 c 226 s 28

#### 97B.065 HUNTING WHILE UNDER THE INFLUENCE OF ALCOHOL OR A CONTROLLED SUBSTANCE.

*[For text of subds 1 to 3, see M.S.1996]*

**Subd. 4. Evidence.** In a prosecution for a violation of subdivision 1, paragraph (a), or an ordinance in conformity with it, the admission of evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine is governed by section 169.121, subdivision 2.

*[For text of subds 5 to 8, see M.S.1996]*

**History:** 1Sp1997 c 2 s 67

#### 97B.066 CHEMICAL TESTING.

*[For text of subds 1 to 4, see M.S.1996]*

**Subd. 5. Chemical tests.** Chemical tests administered under this section are governed by section 169.123, subdivisions 2b, 2c, and 3.

**Subd. 6.** [Repealed, 1Sp1997 c 2 s 69]

**Subd. 7. Administrative review.** (a) At any time during the period of prohibition or revocation imposed under this section, the person may request in writing a review of the order imposing sanctions under this section. If the person makes a request for administrative review within 30 days following receipt of a notice and order imposing sanctions, the request shall stay imposition of the civil penalty. Upon receiving the request for review, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and other material information brought to the attention of the commissioner and determine whether sufficient cause exists to sustain the order.

(b) Within 15 days after receiving the request, the commissioner shall issue a written report ordering that the prohibition, revocation, or civil penalty be either sustained or rescinded. The review provided in this subdivision is not subject to the contested case provi-

sions of the Administrative Procedure Act under chapter 14. The availability of administrative review does not have an effect upon the availability of judicial review under this section.

**Subd. 8. Judicial review.** (a) Within 30 days following receipt of a notice and order imposing sanctions under this section, a person may petition the court for review. The petition must be filed with the district court administrator in the county where the incident occurred giving rise to the test demand and refusal, together with proof of service of a copy on the commissioner and the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred. A responsive pleading is not required of the commissioner of natural resources, and court fees may not be charged for the appearance of the representative of the commissioner in the matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and the commissioner as respondent. The petition must state specifically the grounds upon which the petitioner seeks rescission of the order imposing sanctions.

(c) The filing of the petition does not stay the revocation or prohibition against hunting. However, the filing of a petition stays imposition of the civil penalty. The judicial review shall be conducted according to the rules of civil procedure.

**Subd. 9. Hearing.** (a) A hearing under this section must be before a district court judge in the county where the incident occurred which gave rise to the test demand and refusal. The hearing must be to the court and may be conducted at the same time as hearings upon pretrial motions in the criminal prosecution under section 97B.065. The hearing must be recorded. The commissioner must be represented by the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred which gave rise to the test demand and refusal.

(b) The hearing must be held at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review. The reviewing court may order a temporary stay of the balance of the prohibition or revocation if the hearing has not been conducted within 60 days after filing of the petition, upon the application of the petitioner and upon terms the court deems proper.

(c) The scope of the hearing must be limited to the issues of:

(1) whether the officer had probable cause to believe that the person violated section 97B.065;

(2) whether one of the conditions in subdivision 1 existed;

(3) whether the person was informed as prescribed in subdivision 3; and

(4) whether the person refused to submit to testing.

(d) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(e) The court shall order that the prohibition or revocation be either sustained or rescinded and shall either sustain or rescind the civil penalty. The court shall forward a copy of the order to the commissioner.

**Subd. 10. Payment of civil penalty.** The civil penalty imposed under subdivision 2 must be paid to the political subdivision that represents the commissioner on the petition for judicial review or, in the event that a petition is not filed, to the political subdivision that would have represented the commissioner had a petition been filed. If a person does not pay the civil penalty, the prohibition against hunting is automatically extended until the political subdivision reports to the commissioner in writing that the penalty has been paid.

**Subd. 11. Enforcement of civil penalty.** (a) If a person does not pay the civil penalty imposed under subdivision 2 within 30 days of the date it was imposed, the prosecuting authority representing the commissioner may petition the district court in the county where the incident occurred to file the order imposing the civil penalty as an order of the court.

(b) Once entered, the order may be enforced in the same manner as a final judgment of the court. In addition to the penalty, attorney fees, costs, and interest may be assessed against any person who fails to pay the civil penalty.

**History:** *1Sp1997 c 2 s 8-13*

**97B.075 HUNTING RESTRICTED BETWEEN EVENING AND MORNING.**

A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except big game may be taken from one-half hour before sunrise until one-half hour after sunset, and, except as otherwise prescribed by the commissioner during the first eight days of the season, until January 1, 2001, waterfowl may be taken from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner.

**History:** 1997 c 226 s 29

**97B.112 SPECIAL HUNTS FOR YOUTH.**

The commissioner may by rule establish criteria, special seasons, and limits for youth hunters to take big game and small game by firearms or archery in designated areas or times. The criteria may also include provisions for an unlicensed adult to assist a youth hunter during a special season or special hunt established under this section.

**History:** 1997 c 226 s 30

**97B.211 HUNTING BIG GAME BY ARCHERY.**

Subdivision 1. **Possession of firearms prohibited.** Except when hunting bear, a person may not take big game by archery while in possession of a firearm.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 226 s 31

**97B.301 DEER LICENSES AND LIMITS.**

*[For text of subs 1 to 4, see M.S.1996]*

Subd. 6. **Residents under age 16 may take deer of either sex.** A resident under the age of 16 may take a deer of either sex except in those antlerless permit areas and seasons where no antlerless permits are offered. In antlerless permit areas where no antlerless permits are offered, the commissioner may provide a limited number of youth either sex permits to residents under age 16, under the procedures provided in section 97B.305, and may give preference to residents under the age of 16 that have not previously been selected. This subdivision does not authorize the taking of an antlerless deer by another member of a party under subdivision 3.

**History:** 1997 c 226 s 32

**97B.655 TAKING ANIMALS CAUSING DAMAGE.**

Subdivision 1. **Owners and occupants may take certain animals.** A person may take mink, squirrel, rabbit, hare, raccoon, lynx, bobcat, fox, opossum, muskrat, or beaver on land owned or occupied by the person where the animal is causing damage. The person may take the animal without a license and in any manner except by poison, or artificial lights in the closed season. Raccoons may be taken under this subdivision with artificial lights during open season. A person that kills mink, raccoon, lynx, bobcat, fox, opossum, muskrat, or beaver under this subdivision must notify a conservation officer or employee of the division within 24 hours after the animal is killed.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 226 s 33

**97B.667 REMOVAL OF BEAVER DAMS AND LODGES BY ROAD AUTHORITIES.**

When a drainage watercourse is impaired by a beaver dam and the water damages or threatens to damage a public road, the road authority, as defined in section 160.02, subdivi-

sion 9, may remove the impairment and any associated beaver lodge within 300 feet of the road.

**History:** 1997 c 216 s 84

#### **97B.715 PHEASANTS.**

Subdivision 1. **Stamp required.** (a) Except as provided in paragraph (b) or section 97A.405, subdivision 2, a person required to possess a small game license may not hunt pheasants without:

- (1) a pheasant stamp in possession; and
  - (2) a pheasant stamp validation on the small game license when issued electronically.
- (b) The following persons are exempt from this subdivision:
- (1) residents under age 18 or over age 65; and
  - (2) persons hunting on licensed commercial shooting preserves.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 216 s 85

#### **97B.721 LICENSE AND STAMP REQUIRED TO TAKE TURKEY; TAGGING AND REGISTRATION REQUIREMENTS.**

(a) Except as provided in paragraph (b) or section 97A.405, subdivision 2, a person may not take a turkey without a turkey license and:

- (1) a turkey stamp in possession; and
- (2) a turkey stamp validation on the turkey license when issued electronically.

(b) The requirement in paragraph (a) to possess a turkey stamp or a license validation does not apply to persons under age 18.

(c) The commissioner may by rule prescribe requirements for the tagging and registration of turkeys.

**History:** 1997 c 216 s 86

#### **97B.801 MINNESOTA MIGRATORY WATERFOWL STAMP REQUIRED.**

(a) Except as provided in this section or section 97A.405, subdivision 2, a person required to possess a small game license may not take migratory waterfowl without:

- (1) a Minnesota migratory waterfowl stamp in possession; and
- (2) a migratory waterfowl stamp validation on the small game license when issued electronically.

(b) Residents under age 18 or over age 65 and persons hunting on their own property are not required to possess a stamp or a license validation under this section.

**History:** 1997 c 216 s 87

#### **97B.802 SPECIAL CANADA GOOSE SEASON LICENSE REQUIRED.**

Except as provided in this section, a person required to possess a small game license may not take Canada geese during a special season without a valid special season Canada goose license in possession. Residents under age 18 or over age 65 and persons hunting on their own property are not required to possess the license.

**History:** 1997 c 226 s 34

#### **97B.926 PINE MARTEN AND FISHER ZONE.**

Where a combined pine marten and fisher trapping zone exists, the commissioner must provide an option of a combined limit of fisher and marten.

**History:** 1997 c 226 s 35