

Game and Fish

CHAPTER 97

DIVISION OF GAME AND FISH

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97.01 DEFINITIONS. Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of chapters 97 to 102, shall be given the meanings hereinafter subjoined to them.

Subdivision 2. **Division.** The term "division" means the division of game and fish of the department of conservation of the state of Minnesota.

Subdivision 3. **Director.** "Director" means the director of the division of game and fish of the department of conservation of the state of Minnesota.

Subdivision 4. **Angling.** "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 such line or rod.

Subdivision 5. **Contraband.** "Contraband" means any quadruped, bird, fish, or any part thereof, whether edible or not, caught, killed, transported, or had in possession contrary to the provisions of chapters 97 to 102, and all instrumentalities and devices used in taking wild animals in violation thereof.

Subdivision 6. **Game birds.** The term "game birds" means the anatidae or water-fowl, commonly known as swan, geese, river and sea ducks; the rallidae, commonly known as rails, gallinules, coots, or mudhens; the gallinae, or upland game birds, commonly known as grouse, prairie chickens, pheasants, partridges, and quail; the limicolae or shore birds, commonly known as plover, snipe, and woodcock; and the columbae, commonly known as pigeons and doves.

Subdivision 7. **Open season.** "Open season" means the time during which fish, fowl, birds, and quadrupeds may be taken.

Subdivision 8. **Closed season.** "Closed season" means the time during which fish, fowl, birds, and quadrupeds may not be taken.

Subdivision 9. **Taking.** "Taking" includes pursuing, shooting, hunting, 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 or other device commonly 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 birds or quadrupeds. A person who counsels, aids, or assists in a violation of any of the provisions of chapters 97 to 102, or knowingly shares in any of the

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proceeds of a violation by receiving or possessing either fish, birds, or quadrupeds, shall be deemed to have incurred the penalties provided in chapters 97 to 102 against the person guilty of such violation. When taking is allowed by law reference is had to taking by lawful means and in a lawful manner.

Subdivision 10. **Hunting.** "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.

Subdivision 11. **Game.** "Game" includes all game birds and all quadrupeds for which a closed season is provided, whether domestic or imported.

Subdivision 12. **Pike.** "Pike" means that variety of fish called yellow pike, wall-eyed pike, or pike-perch.

Subdivision 13. **Pickereel.** "Pickereel" includes the great northern pike, pond pickereel, chain pickereel, grass pickereel, and banded pickereel.

Subdivision 14. **Minnnows.** "Minnnows" means all genera or species of fish not ordinarily attaining a length of more than four inches at maturity.

Subdivision 15. **Fur-bearing animals.** "Fur-bearing animals" means all quadrupeds except deer, moose, or caribou.

Subdivision 16. **Resident.** "Resident" means any person who has resided in this state for at least six months.

Subdivision 17. **Person.** "Person," except when used in reference to the issuing of licenses to take game fish, birds, or quadrupeds, includes a firm, copartnership, joint stock company, association, or municipal or private corporation.

Subdivision 18. **Possession.** "Possession" means actual or constructive possession or control.

Subdivision 19. **Sale.** "Sale" includes any offer to sell, or having in possession with intent to sell, in violation of law.

Subdivision 20. **Any part thereof.** The term "any part thereof" used in reference to any animal includes the hides, hoofs, horns, plumage, or skin of the animals referred to.

Subdivision 21. **Wild animals.** The term "wild animals" means all living creatures not human, wild by nature, endowed with sensation and the power of voluntary motion and includes quadrupeds or mammals, birds, and fish.

Subdivision 22. **Waters of this state.** The term "waters of this state" includes all the boundary waters of this state.

Subdivision 23. **Big game.** The term "big game" includes deer, moose, elk, caribou, and bear.

Subdivision 24. **Small game.** The term "small game" includes all other protected wild quadrupeds and wild birds.

Subdivision 25. **Dark house.** A "dark house" is a structure set on the ice and so darkened as to permit the discernment of the fish in the water beneath such structure.

[1919 c. 400 s. 140; 1927 c. 438 s. 2; 1929 c. 332 s. 2; 1933 c. 261; 1933 c. 392 s. 5; 1937 c. 447 s. 2; 1939 c. 76; 1939 c. 231 s. 5; 1941 c. 217 s. 4] (5536-2) (5585-1) (5649) (6131-3)

97.015 ADMINISTRATION. The division of game and fish shall have administration over game and fish, their propagation and protection, and the maintenance and development of public shooting grounds and game refuges.

[1937 c. 310 s. 3] (53-23½n)

97.02 CONSTRUCTION. 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.

[1919 c. 400 s. 141] (5650)

97.03 STATE AS SOVEREIGN OWNS WILD ANIMALS. The ownership of wild animals, so far as they are capable of ownership, is hereby declared to be in the state, not as a proprietor, but in its sovereign capacity as the representative and for the benefit of all its people in common.

[1919 c. 400 s. 2] (5496)

97.033 WILD RICE; OWNERSHIP OF. The ownership of all wild rice grain growing in the public waters of this state, in so far as it is capable of ownership, is

hereby declared to be in the state and no person shall acquire any property therein, except as authorized by sections 84.09 to 84.15.

[1939 c. 231 s. 5; 1941 c. 217 s. 4] (6131-8)

97.04 TAKING OF WILD ANIMALS RESTRICTED. No person shall at any time of the year pursue, take, wound or kill, in any manner, number or quantity, any wild animals protected by law, or buy, offer to buy, sell, offer, or expose the same, or any part thereof, for sale, transport, or have the same in possession, except as permitted by chapters 97 to 102. No person shall acquire any property in any wild animals in this state except as authorized by chapters 97 to 102, and the legal title to any wild animal taken or reduced to possession in violation of law shall remain in the state, and the title to any wild animal lawfully acquired shall revert to the state when any law relating to the possession, use, or disposition of such wild animal shall be violated.

[1919 c. 400 s. 3; 1921 c. 44 s. 1] (5497)

97.05 ADDITIONAL PROTECTION; ORDERS OF COMMISSIONER. When the commissioner, after investigation by the director, finds that any species of wild animals, for which an open season is provided, is in danger of undue depletion or extinction, or when necessary for the proper protection or propagation of any protected wild animals, he may, by an order giving 30 days' public notice, provide protection for such species, additional to that provided by law, and to that end may prescribe restrictions as to in what numbers, and in what places, the same may be taken and reduce in part, or close in its entirety, any open season provided for the taking of any protected wild animals. No open season for the taking of any protected wild animals shall be declared otherwise than by legislative action. Any order issued by the commissioner pursuant to this section shall have the force of law and the penalties prescribed for violations of chapters 97 to 102 shall follow and be applicable to violations of any such order to same effect and extent, respectively, as though such order had been enacted as a part thereof. No such order shall be valid after the close of the season affected by or for which the order was issued; provided, the commissioner is authorized and shall have the power to make any and all regulations for the taking of fish from boundary waters between the state of Minnesota and the state of Wisconsin, and such regulations, when made, shall supersede any previously existing provisions.

[1919 c. 400 s. 134; 1939 c. 269] (5640)

97.06 LIMITS OF GAME AND FISH; WANTON WASTE. No person shall wantonly waste or destroy wild animals except as otherwise expressly permitted by law. No person shall, after taking or killing any protected wild animal, abandon or permit the edible part of the carcass thereof to waste or decay, provided this shall not prevent the manufacture of fish meal or other animal food out of lawyer, burbot, or eelpout or carp lawfully taken, or the sale or transportation of such fish meal or food.

[1919 c. 400 s. 6; 1925 c. 380 s. 1; 1929 c. 417 s. 2] (5500)

97.07 STORAGE OF WILD ANIMALS IN COMMERCIAL COLD STORAGE WAREHOUSES FORBIDDEN. No person, except the director, shall place or store, or receive or accept for storage in a cold storage warehouse, any protected wild animal, except fish or furs lawfully taken. This shall not prohibit the placing of carcasses of wild animals or game birds legally taken under hunting license in refrigerators or cooling rooms in butcher shops or other places not classified as commercial cold storage warehouses when done to prevent wanton waste; provided, that all such wild animals or game birds so placed shall have attached thereto tags plainly marked, in ink, to indicate the name of owner and number of license under which the wild animals or game birds were taken, and be held subject to inspection by the director and his duly authorized agents.

[1919 c. 400 s. 8; 1925 c. 380; 1939 c. 351] (5502)

97.08 POSSESSION OF IMPORTED GAME DURING CLOSED SEASON. Except as expressly permitted by law, no person shall have in possession in this state any wild animal, or any part thereof, which has been caught, taken, or killed outside of this state at a time when it is unlawful to have such wild animals in possession if caught, taken, or killed in this state or which has been unlawfully caught, taken, or killed outside of this state, or unlawfully shipped therefrom into this state.

[1919 c. 400 s. 9; 1921 c. 44 s. 2; 1929 c. 417 s. 3] (5503)

97.09 POSSESSION OF DEER, MOOSE, AND GAME BIRDS; WHEN LAWFUL.

No person shall have in possession any deer, moose, or game birds, or any part thereof, in this state, except during the open season therefor and for a period of five days thereafter, unless the tags or permit hereinafter referred to have been issued to him. Mounted specimens of wild animals, tanned hides, and dressed furs are excepted from chapters 97 to 102.

[1919 c. 400 s. 39] (5533)

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97.10 PERMITS TO KEEP GAME AFTER SEASON CLOSES. Any person desiring to retain possession of deer, moose, game birds, or game fish after the close of the season therefor shall surrender the license under which such deer, moose, game birds, or game fish were taken, to the director or game warden, and he, if satisfied that the application and surrender are made in good faith, and that the applicant is a resident of this state, shall cause distinctive tags or seals to be affixed to each deer, moose, game birds, or game fish, or parts thereof, lawfully in possession of the applicant, or he shall issue a written permit to the applicant to keep and use such deer, moose, game birds, game fish, or parts thereof, and thereupon the applicant shall be entitled to retain possession of the game until consumed; provided, no such wild animals may be retained under a permit after the last day of April in the year following that in which they were taken or killed. Wild animals, lawfully taken and had in possession outside this state, may be brought or shipped into this state and had in possession at any time upon proof that they have been so lawfully taken, provided retaining tags herein provided for are attached thereto.

~~[1939 c. 360 s. 1] (5534)~~

97.11 NOT TO BE SHIPPED OR SOLD. No person shall ship or sell any deer, moose, game birds, or parts thereof, which has been tagged with a retaining tag, or for which a permit has been issued as provided in section 97.10. A person may dispose of by gift protected wild animals lawfully in his possession.

[1919 c. 400 s. 41] (5535)

97.12 TRANSPORTATION OF UNLAWFULLY KILLED GAME. No person shall transport, ship, or convey, or attempt so to do, any wild animal, or any part thereof, taken, caught, killed, or possessed in violation of law, and no common carrier or employee of such carrier, shall, while engaged in such business, knowingly ship, or receive for shipment, or aid or abet in the shipment of any wild animals, or any part thereof, caught, taken, killed, or possessed in violation of law.

[1919 c. 400 s. 10; 1929 c. 417 s. 4] (5504)

97.13 TRANSPORTATION AND EXPORTATION OF SALABLE FISH AND GAME. Subdivision 1. **What may be transported.** Any person may transport within this state, or from a point within to a point without this state, during the open season, any wild animals, or parts thereof, which may be lawfully sold, except as specifically prohibited by chapters 97 to 102.

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

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

taken and lawfully in his possession for mounting or tanning purposes to a point within or without this state; all subject to the provisions of section 97.14.

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

Subdivision 5. **Limits for non-residents.** Any non-resident, except agents and employees of a carrier, while engaged in the performance of his duties, may ship or transport in a vehicle, boat, or other means of transportation, or may carry with him as baggage on a common carrier or may ship or transport by common carrier, consigned to himself only, to any point within or without this state, in the manner provided by section 97.14, any wild animals, including fish, lawfully taken or killed and possessed by him in this state, but not to exceed during any one open season 25 game birds and one deer. Common carriers are hereby permitted to carry such wild animals as baggage.

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

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

Subdivision 8. **Shipments, non-resident.** A non-resident duly licensed to fish in this state may ship by common carrier, as provided by chapters 97 to 102, to a point outside this state in any one season not to exceed 20 pounds of fish of any variety or one fish lawfully caught by him in this state, and as provided by chapters 97 to 102; but not more than ten pounds may be shipped on one coupon. *Ann 1943-110*

Such non-resident shall further be authorized to transport or carry with him to any point beyond the boundaries of the state, not to exceed one daily limit of fish of any variety.

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

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

Subdivision 9. **Manner of shipment, resident.** A resident may ship fish lawfully taken and possessed by him from one point in the state to another. The shipment must be made to the person taking such fish. *New 1943-284-1*

Subdivision 10. **Number, limit.** No person shall at any time ship or transport a greater number of any kind of wild animals than he is permitted by law to have in possession at such time. All wild animals under the control of any person, whether actually in his personal custody or in transit or at their destination after shipment, or otherwise, shall be deemed to be in the possession of such person for the purposes of any law relating to wild animals.

[1919 c. 400 s. 11; 1925 c. 380 s. 1; 1929 c. 417 s. 5; 1933 c. 392 s. 1; 1939 c. 76 s. 2; 1939 c. 354 ss. 1, 2; 1941 c. 457] (5505)

97.14 MANNER OF TRANSPORTATION, GAME BIRDS OR DEER. No common carriers shall transport, and no person shall offer to a common carrier for transportation to a point within or without the state, any game birds or any deer, or parts thereof, except as expressly permitted by section 97.13, and in the following manner: The person offering game birds or deer, or parts thereof, for shipment shall exhibit his license to an agent of the carrier, and sign his name to each section of one of the coupons attached to his license, in the presence of the agent.

In case of game birds being shipped by a resident of this state, section "B" of the game bird coupon shall be attached by the licensee to the game birds offered for shipment. Thereupon the agent shall detach section "A" of the coupon from the license and immediately forward the same, by mail, to the director.

In the case of deer, or parts thereof, being shipped by a resident of this state, section "B" of a deer coupon shall be attached by the licensee to any deer, and section "C" thereof to any deer hide, and section "D" to any deer head, offered for shipment. Thereupon the agent shall detach section "A" of the coupon from the license and immediately forward the same by mail to the director.

In the case of game birds or deer, or parts thereof, being shipped by a non-resident, sections "B" and "C" of a game bird coupon, or a deer coupon, shall be attached by the licensee to any game birds or deer, or parts thereof, offered for

shipment. Thereupon the agent shall detach section "A" of the coupon from the license and immediately forward the same by mail to the director. Section "C" shall be removed from the game birds or deer by the carrier at the last stop made by it in this state and immediately forwarded by it by mail to the director.

[1919 c. 400 s. 12; 1925 c. 380 s. 1; 1939 c. 354 s. 3] (5506)

97.15 PACKAGES FOR TRANSPORTATION TO BE LABELED. No person shall ship, transport, or convey by common carrier any wild quadruped or bird, or any part thereof, including the raw or undressed furs of any protected wild animal, in any package, sack, box, crate, trunk, or other receptacle or covering unless there is attached or affixed to the outside thereof a proper coupon tag, and a statement signed by the licensee shipping the same, legibly written or printed, showing the name and address and license number of the licensee, and the name, number, and kinds of wild animals, or parts thereof, contained in the same. The licensee shall open such receptacles on the request of any game warden, and a game warden may, in the absence of the licensee, open the same to inspect and count the contents thereof. The way-bill or receipt issued by any common carrier to a shipper shall specify therein the number of wild animals so shipped. In case the owner or occupant of land ships furs or animals lawfully taken or killed on his own land, such statement, in lieu of the foregoing, shall state: "The contents of this package were taken from animals killed on my land," and shall be signed by the shipper.

No person shall ship by common carrier, within or without the state, any fish of any variety, in any package, sack, box, crate, trunk, or other receptacle or covering unless there shall be plainly marked on the same the name and address of the consignor and consignee, with the number of pounds of each kind of fish contained therein. Any game warden or peace officer may open and examine any receptacle which he has reason to believe contains an unlawful shipment of fish.

[1919 c. 400 s. 13; 1925 c. 380] (5507)

97.16 LIMITATION ON PROSECUTIONS. No prosecutions under chapters 97 to 102 shall be commenced unless begun within three years after the commission of the offense complained of.

[1919 c. 400 s. 17] (5511)

97.17 PRESUMPTIVE EVIDENCE. Possession of wild animals during the time when the taking of the same in this state is prohibited, or when the possession of the same after the close of the open season is not permitted, shall be presumptive evidence that the same was unlawfully taken by the possessor, unless there is attached to such wild animal the tag and seal of the director, as provided for in chapters 97 to 102.

[1919 c. 400 s. 18] (5512)

97.18 WITNESSES. The testimony of a person given in behalf of the state in a prosecution for the violation of chapters 97 to 102 shall not be received as evidence in a prosecution for the same offense against the person so testifying.

[1919 c. 400 s. 19; 1929 c. 417 s. 7] (5513)

97.19 DIRECTOR. The director is charged with the execution of the game and fish laws. He shall give a bond to the state in the sum of \$5,000. He shall have an office in the capitol and be provided with an official seal and suitable office equipment, including furniture, stationery, blanks, and postage.

[1919 c. 400 s. 121; 1921 c. 37 s. 1] (5627)

97.20 EMPLOYEES; APPOINTMENT, BONDS, COMPENSATION. The director may appoint and, at his pleasure, remove a superintendent of fisheries and such wardens, game refuge patrolmen, and office and scientific assistants as he deems necessary; and fix their periods of service and compensation. The wardens shall make written reports of their doings to the director under rules and regulations prescribed by him. The superintendent of fisheries shall give a bond to the state in the sum of \$1,000, and each warden and patrolman shall give a bond to the state in the sum of \$500.00. Bonds given by game wardens or refuge patrolmen shall have as surety therein a corporation duly authorized to write surety bonds and to transact business in this state. The bonds shall be conditioned for the faithful discharge of their respective duties, approved by the director, and filed in the office of the secretary of state. He may also appoint, without compensation, a warden or deputy game warden of the state of Wisconsin to the office of game warden in this state.

[1919 c. 400 s. 123; 1925 c. 380 s. 1] (5629)

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97.21 ADDITIONAL BOND OF DIRECTOR. In addition to his official bond, the director shall, before undertaking any operations thereunder, give a bond to the state, in the sum of \$20,000, conditioned upon his faithful compliance with the provisions of sections 98.39, 102.14, 102.16, and 102.17. R1943-229-8

[1919 c. 341 s. 5] (5608)

97.22 DIRECTOR; GENERAL POWERS AND DUTIES; STATISTICS; BULLETINS. The director shall be charged with the execution of the laws of this state relating to wild animals, and he shall have the power and it shall be his duty:

(1) To preserve and cultivate varieties of wild animals deemed by him to be of value to the public, and to destroy, kill, and exterminate varieties of unprotected and predatory animals deemed by him to threaten injury to, or destruction of, other animals, or to retard the growth or development of other animals;

(2) To receive and acquire by purchase, gift, exchange, or other arrangement, specimens of wild animals, and of the eggs of wild birds, and of fish eggs, for breeding and stock purposes;

(3) To take fish or fish eggs, or to authorize such taking, from any of the public waters of this state in any manner during the open or closed season for the purpose of stocking other waters herein, and he may sell such fish as are necessarily killed in taking fish eggs, and may sell suckers, redhorse, or mullets, taken in connection with such spawning, the proceeds of the sale of such fish to be paid into the state treasury as required of other receipts of the department; provided, that no fish or fish eggs shall be placed in any waters unless these waters are accessible to the public for fishing purposes;

(4) To collect, compile, disseminate, and publish statistics and information germane to the purpose of chapters 97 to 102, and to the department, including the publication of a department journal or magazine for the publication of matter pertaining to conservation only, to fix and determine the name and the annual subscription price thereof, and to accept for publication therein appropriate advertising material (The money received from such subscriptions and advertising material shall be paid into the state treasury by the director, and the amount thereof is hereby annually appropriated to the division for the purpose of defraying the cost of the editing, publication, and mailing thereof; provided, that this journal or magazine shall be self-sustaining; that no funds to defray the cost thereof shall be diverted from the division or from the general revenue fund of the state; and such journal or magazine shall be distributed free of charge only to schools, libraries, daily and weekly newspapers and trade publications published in Minnesota, the heads of state departments and bureaus of Minnesota, and to the heads of game and fish departments of other states; the department journal or magazine or any other bulletin or publication now issued, or that may at any time hereafter be issued, by the division shall not be known or designated as the official publication of any sportsmen's organizations);

(5) To acquire by gift, or by purchase or condemnation when money has been appropriated therefor, the fee title to land, or any easement therein, suitable for game farm or fish hatchery purposes, to construct and maintain buildings and hatcheries on sites so acquired, and to manage, superintend, and control those already or hereafter established;

(6) To set aside and reserve any of the waters of this state for the purpose of fish propagation, to open the season for taking any kind of fish specified by him in any lake lying within 13 miles north of the zone line fixed by section 101.03 at the same time fixed by law for taking such fish in the southern zone, and by order designate certain streams as trout streams; the taking of fish from any of the waters so reserved and set aside, except as may be permitted by the director, is prohibited;

(7) To make rules and regulations relating to the breeding of wild animals and such other matters as may be specifically mentioned in chapters 97 to 102 as requiring rules and regulations to be adopted by him;

(8) To select, set aside, and reserve from lands owned by the state, and to acquire by condemnation, gift, lease, or purchase, lands, or easements, riparian rights, or other interests therein and thereon, suitable for the purposes of establishing and reforesting large and small game public hunting grounds and game refuges, subject to the approval of the executive council, and establish thereon public hunting grounds, and set aside a portion of each of these public hunting grounds, not exceeding one-third thereof, as a state game refuge, the portion so

set aside to be surrounded on all sides by the remainder thereof, and pay the compensation for property acquired or damaged for such public hunting grounds and game refuges and the cost of improving and maintaining the same out of any funds available for the purposes of chapters 97 to 102, and make such rules and regulations as he shall deem necessary governing the conduct of persons on these public hunting grounds and game refuges.

[1919 c. 400 s. 124; 1925 c. 340 s. 1; 1925 c. 419 s. 1; 1929 c. 319; 1931 c. 376 s. 1; 1931 c. 39; 1933 c. 376 ss. 1, 2; 1933 c. 392 s. 22] (5630)

97.23 DIRECTOR MAY ACQUIRE LANDS. Subdivision 1. **Purposes.** For the purposes of chapters 97 to 102, the director may acquire lands in any drainage district in this state or in any portion thereof, and may alter the flow of water in the drainage district by dikes, dams, or otherwise, as may be deemed by him to be expedient or necessary, subject to the provisions of chapters 97 to 102.

Subdivision 2. **Title in state.** Title to any lands or interests acquired for the purposes of chapters 97 to 102 shall be taken in the name of the state, and condemnation proceedings for the acquisition thereof shall be governed by the laws relating to the condemnation of property for the state, subject to the provisions of chapters 97 to 102. In these condemnation proceedings, in addition to service of the notice of the objects and contents of the petition and of the time and place of presenting the same as otherwise required by law, three weeks' published notice thereof shall be given within the time prescribed by law for service of such notice, in a qualified legal newspaper published at the county-seat of each county in which any lands affected by the proceedings are situated. Any person owning lands or interests affected by any such proceeding and not made a party thereto may intervene therein at any time up to the time of presentation of the petition.

Subdivision 3. **Eminent domain, proceedings.** In case it is necessary to acquire by condemnation for any project under chapters 97 to 102 any public or private property situated in more than one county, the following provisions shall apply: Proceedings for the condemnation of all such property may be had in the district court of the county in which the larger portion of the lands affected by the proceedings lie, and the court shall have complete jurisdiction thereof. The court shall appoint the same number of commissioners as otherwise prescribed by law for such proceedings, but shall appoint at least one resident of the county in which the proceedings are commenced and at least one resident of each other county affected, as far as possible. A certified copy of every attorney's certificate, decree of the court, or other instrument provided by law for finally establishing or evidencing the rights of the petitioner in the lands affected shall be filed for record with the register of deeds of each county in which any lands affected by the certificate, decree, or other instrument are situated, but describing only so much of the lands affected as are situated in the county in which it is so filed.

Subdivision 4. **Possession.** The director may, at any time after the filing of the petition for the condemnation of any lands or interests in lands for the purposes of chapters 97 to 102, take possession thereof, except as hereinafter provided, and may at any time enter upon any lands and make surveys and examinations thereof for the purpose of determining whether the same are suitable or necessary for the purposes of chapters 97 to 102.

Subdivision 5. **Limitations.** No public highway or public drainage ditch or system shall be obstructed or damaged so as materially to impair or interfere with the maintenance or use thereof by any project under chapters 97 to 102, and no other public property shall be taken or damaged by any such project, and no waters in any ditch, stream, lake, or other body of water or water-course shall be interfered with or affected in any manner so as to take or damage any public or private property by flowage, seepage, drainage, or otherwise, unless the necessity therefor shall first be determined by the court in condemnation proceedings, as herein provided, to which proceedings each county, city, town, village, and private property owner affected shall be made a party. In case the project involves or necessitates the changing of any water level so as to take or damage any public or private property by flowage, seepage, drainage, or otherwise, the proposed new level and the extent to which and the manner in which any lands will be affected thereby shall be specified and shown in the petition and by plans filed therewith in the condemnation proceedings. In case the project involves or necessitates any material extension, alteration, or relocation of a public drainage ditch or system or of a public highway, the proposed extension, alteration, or relocation shall be described

in a supplemental petition filed by the director in the condemnation proceedings in like form as provided by law for a petition for such extension, alteration, or relocation of a judicial ditch or highway, as the case may be, but without bond, and thereupon the court in which the condemnation proceedings are pending, whether the ditch or drainage system or highway, as the case may be, was originally established by the court or not, shall have complete jurisdiction in the premises as if the drainage ditch or system or the highway were a judicial ditch or highway, as the case may be, established by the court, and the petition shall have the same effect as a petition for the alteration, extension, or relocation of the judicial ditch or highway, as the case may be, filed according to the laws applicable thereto, respectively. Thereupon the court shall cause notice to be given and proceedings to be had upon the petition to effect the proposed alteration, extension, or relocation as part of and supplemental to the condemnation proceedings in like manner and with like effect as provided by law for the alteration, extension, or relocation of a judicial ditch or highway, as the case may be; provided, that the commissioners appointed by the court in the condemnation proceedings shall act as viewers or commissioners, as the case may be, in such supplemental alteration, extension, or relocation proceedings. The court shall make its final order in such supplemental proceedings determining and specifying the nature and extent of the alteration, extension, or relocation to be made, and also determining and specifying to what extent the original drainage ditch or system or highway, as the case may be, shall be vacated and abandoned, and upon the completion of the project in accordance with such order the original drainage ditch or system or highway shall be deemed to be vacated and abandoned to the extent specified in such order.

A certified copy of such order shall be filed with the court or with the proper officer of the body by which the drainage ditch or system or highway was originally established, and shall be binding upon all parties thereto as if made therein according to the laws relating thereto. All compensation awarded in such supplemental proceedings for property taken or damaged shall be paid out of the moneys appropriated for the purposes of chapters 97 to 102.

Subdivision 6. Unpaid taxes or assessments; payment. When any lands or interests acquired or damaged under chapters 97 to 102 are subject to any unpaid taxes or assessments, these taxes or assessments shall be paid by the director out of, and shall be deducted from, the compensation payable for such lands or interests or for damages thereto, as the case may be, as far as such compensation is sufficient therefor, and thereupon such lands or interests shall be discharged from the lien of such taxes or assessments, whether the full amount thereof has been paid or not; provided, that in any case where such compensation is paid otherwise than as determined in judicial proceedings, as herein provided, such lands or interests shall be discharged from such lien only to the extent of the amount actually paid thereon; and, provided, that such discharge shall not affect the lien of any unpaid taxes or assessments, or portion thereof, on any undivided or remainder or other interests not taken under chapters 97 to 102.

Subdivision 7. Director must consent to establishment of certain drainage systems. No public drainage ditch or system hereafter established shall be constructed or maintained so as to affect in any manner public hunting grounds or game refuge established under chapters 97 to 102, or any waters thereon, nor shall any public highway be constructed over or across any such public hunting grounds or game refuge, unless the director shall, after having determined that the maintenance and use of such public hunting grounds or game refuge will not thereby be injuriously affected, consent thereto.

Subdivision 8. Maintenance of game refuges. The director shall maintain all public hunting grounds and game refuges established under chapters 97 to 102 in such manner as he shall deem best for the benefit of the public and for the protection and propagation of wild game therein, and may erect such structures and make such other improvements thereon as he deems necessary or proper for the maintenance thereof.

[1919 c. 400 s. 124; 1925 c. 340 s. 1; 1925 c. 419 s. 1; 1929 c. 319; 1931 c. 376 s. 1; 1931 c. 39; 1933 c. 376 ss. 1, 2; 1933 c. 392 s. 22] (5630)

97.235 SALE OR EXCHANGE OF PUBLIC HUNTING GROUNDS. When lands to which title has been acquired in the name of the state, for the purpose of public hunting grounds, under the provisions of sections 97.22 and 97.23, shall be found by the commissioner to be unsuitable for the purpose of establishing and main-

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taining the same as public hunting grounds and game refuges, he shall have the authority, subject to the approval of the executive council, to sell or dispose of such lands at a price not less than that for which they were purchased, or he may exchange these lands for lands of equal value that are suitable for rounding out, enlarging, filling in, or adding to areas upon which public hunting grounds have been established.

The proceeds from any sales shall be paid into the state treasury and credited to the public hunting ground fund and are hereby appropriated and made available for the authorized uses and purposes of such fund.

[1941 c. 404]

1943-229-8
97.24 RULES AND REGULATIONS. The director is hereby authorized to adopt such rules and regulations as in his judgment are necessary to successfully prosecute the provisions of sections 98.40 and 102.14 to 102.18, to determine size of mesh in seines and nets, to provide for proper supervision of any and all fishing operations, to provide for proper reports on daily catches and sale of fish, to require necessary guarantees for the fulfillment of all conditions of any contract entered into.

[1925 c. 408 s. 3; 1927 c. 437 s. 3] (5609-3)

43-136-1
97.25 REMOVAL OF FISH FROM SHALLOW LAKES. The director may, when, after investigation, he finds that any fish are in danger of smothering in winter by reason of the shallowness of the waters inhabited by them, take the same in any manner, at any time, from such shallow lakes or sloughs, transfer such as may be suitable for stocking purposes to other waters in this state, and sell such as are not deemed by him suitable for stocking purposes, or the director may, by published order, open such waters to fishing in any manner except with the use of seines or explosives, by residents of the state for personal use only and not for sale.

[1919 c. 400 s. 131; 1925 c. 380 s. 1; 1941 c. 32] (5637)

43-392-1
97.251 STATE FISH PROPAGATION FUND. There is hereby created a state fish propagation fund for the purpose of acquiring, creating, maintaining, improving, and repairing state-owned fish hatcheries and rearing ponds and appurtenant equipment and for the purpose of making stream and lake surveys, scientific surveys relating to fishes, and improving the waters of this state as a habitat for fishes. This fund shall consist of all moneys now in the fish fry fund, as established by section 97.25, all moneys hereafter received which heretofore would have been accredited to the fish fry fund, together with not less than 60 per cent of all moneys received from the resident fishing license provided for in section 98.01. The amount of this fund is hereby annually appropriated to the division for fish propagation. Not more than 40 per cent of the resident fishing license fees shall be credited to the game and fish fund, as provided in section 98.36. Any citizen of the state receiving old age assistance shall, upon application, be granted a gratuitous fishing license.

[1941 c. 467 s. 2]

97.26 POLICE POWERS OF DIRECTOR, PATROLMEN, AND WARDENS. The director, game refuge patrolmen, and game wardens are hereby authorized and empowered:

(1) 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 in the same manner as any constable or sheriff may serve and execute such processes, and to arrest, with or without a warrant, any person detected in the actual violation, or whom such officer has reasonable cause to believe guilty of the violation, of any of the provisions of chapters 97 to 102, and to take such person before any court in the county in which the offense was committed, and make proper complaint;

(2) Upon receiving notice or information that any provision of chapters 97 to 102 has been violated, to make a thorough investigation thereof as soon as possible and to cause proceedings to be instituted if the proofs at hand warrant it;

(3) To enter and inspect any hotel, restaurant, cold storage warehouse, plant, ice-house, or building actually used for the storage of dressed meats, game, or fish, for the purpose of determining whether game or fish are kept or stored therein in violation of chapters 97 to 102, including the right to examine and inspect the books and records of persons, firms, or corporations which the director has reason to believe have violated the laws of this state relating to wild animals, and, with or without a warrant, to open, enter, and examine all buildings, camps, vessels, boats, wagons, automobiles or other vehicles, cars, stages, tents, suit cases, valises, packages, crates, boxes, and other receptacles and places where they have reason to

believe the wild animals, taken or held in violation of chapters 97 to 102, are to be found; and wilful hindering, obstructing, interfering with, or refusing such inspection shall constitute a misdemeanor;

(4) To seize and confiscate, in the name of the state, any wild animal, including birds or fish, or carcasses or parts thereof, caught, killed, taken, or had in possession or under control, or sold or transported in violation of chapters 97 to 102, and to seize, confiscate, and dispose of all guns, firearms, nets, boats, lines, rods, poles, fishing tackle, lights, lanterns, snares, traps, spears, or dark houses, unlawfully used or had in possession with intent to unlawfully use the same in pursuing, taking, attempting to take, conceal, or dispose of, or transport such wild animals. Articles which have no lawful use may be summarily destroyed. All confiscated wild animals or carcasses or parts thereof, and all confiscated apparatus, appliances, or devices, shall, if not destroyed as authorized by law, be retained by the director for the use of the department or sold at the highest price obtainable by the director or game wardens, or by an agent of the director, under written authority and supervision of the director. The net proceeds of such sales, after deducting the expense of seizure and sale, and any such commissions, shall be promptly remitted by the warden by whom and under whose authority and supervision the sales were made, to the director, and by him paid into the state treasury; the remittance to be accompanied by the complete and certified report of such sales, supported by proper vouchers covering all deductions made for expenses and commissions, to be filed for record in the office of the director.

[1919 c. 400 s. 125; 1921 c. 44 s. 12; 1925 c. 380 s. 1; 1933 c. 392 s. 19] (5631)

97.27 SEARCH WARRANTS. 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, or carcass or part thereof, caught, taken, killed or had in possession or under control by any person, or sold or transported contrary to the provisions of chapters 97 to 102, is concealed or illegally kept in any building, car, or receptacle, such magistrate shall issue a search warrant and cause a search to be made in such place for any such wild animals, or parts thereof, and may cause any building, enclosure, or car to be entered and any apartment, chest, box, crate, basket, package, or any other receptacle whatever to be broken, opened, and examined. The property so 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 if such trial results in a conviction, the property so seized shall be confiscated.

[1919 c. 400 s. 126] (5632)

97.28 POSSESSION OR SHIPMENT OF COMMINGLED GOODS. Confiscation of any part of a shipment shall include the entire shipment, and when two or more wild animals, carcasses, or parts thereof, are packed, stored, or contained in the same bag, crate, box, or other receptacle, or are otherwise commingled and one or more thereof are contraband, then and in such case the whole shipment or parcel shall be deemed contraband.

[1919 c. 400 s. 127] (5633)

97.29 LOCAL AUTHORITIES TO ASSIST. The county attorneys, constables, and other peace officers are hereby required, and it is made their duty, to enforce the provisions of chapters 97 to 102.

[1919 c. 400 s. 128; 1925 c. 380 s. 1] (5634)

97.30 OBSTRUCTING DIRECTOR PROHIBITED. No person shall wilfully hinder, resist, or obstruct the director, game wardens, agents, or employees of the director in the performance of their official duties. A civil action, in the name of the state, to recover damages resulting from such obstruction and to enjoin the continuance thereof may be instituted against any person violating this section, by the attorney general, on the request of the director.

[1919 c. 400 s. 129] (5635)

97.31 REWARDS. Rewards may be paid by the director to persons, other than salaried game wardens or peace officers, for information leading to the arrest and conviction of any person violating any of the provisions of chapters 97 to 102, as follows: For violating provisions thereof relating to moose, the sum of \$50.00; for violating provisions thereof relating to deer, the sum of \$25.00; for violating provisions thereof relating to other quadrupeds, birds, or fish, the sum of \$10.00. These rewards shall be paid out of any funds appropriated to the division.

[1919 c. 400 s. 132] (5638)

97.32 DESTRUCTION OF PREDATORY ANIMALS. Wild animals, whether protected by law or not, may, when destroying or interfering with the breeding or propagation of protected wild animals, or when injuring or damaging private or public property, be destroyed or killed under such rules and regulations as the director may prescribe.

[1919 c. 400 s. 133; 1925 c. 380 s. 1] (5639)

97.33 PUBLICATION OF ORDERS AND RULES. All orders and all rules and regulations affecting the entire state promulgated by the director shall be published once in one qualified newspaper in Minneapolis, St. Paul, and Duluth. All such orders, rules, and regulations not affecting the entire state shall be published once in one qualified newspaper in each county affected. No order, rule, or regulation shall take effect until after such publication.

[1919 c. 400 s. 135] (5643)

97.34 PUBLICATION OF LAWS RELATING TO WILD ANIMALS. As soon as practicable after the adjournment of the legislature in each year, the director, with the assistance of the attorney general, shall make a compilation of the laws relating to wild animals, as amended at the date of the compilation, and properly index the same. Copies of this compilation, sufficient in number for the purposes of this section, shall be printed in pamphlet form of pocket size under the direction of the commissioner of administration, and distributed by the director as follows: 50 copies to each senator, 25 copies to each representative, and ten copies to each county auditor; 10,000 copies shall be printed by the director for general distribution. It shall be the duty of the director to prepare and issue a syllabus of the laws and to deliver to county auditors a sufficient supply for furnishing one copy to each person procuring a hunting or trapping license, and each such person shall be entitled to one copy of the syllabus.

[1919 c. 400 s. 136] (5644)

97.35 COMMON BOUNDARY WATERS. The taking of wild animals of any kind, including game birds, quadrupeds, and, in any manner in or upon any of the waters which form a common boundary between Minnesota and any other state of the United States, contrary to the laws of such state, is hereby prohibited; provided, the director may license or otherwise provide for the taking or removal of rough or non-game fish in these waters or otherwise authorized by law.

[1919 c. 400 s. 137; 1931 c. 298 s. 1] (5645)

97.36 RECIPROCAL JURISDICTION; COURTS AND WARDENS. Courts of this state sitting in the counties contiguous to common boundary waters, and game wardens of this state, shall have jurisdiction over the entire boundary waters of this state, and concurrent jurisdiction of the courts and administrative officers of the states of North Dakota, South Dakota, and Wisconsin over all boundary waters between such states is hereby recognized.

[1919 c. 400 s. 138] (5646)

97.37 SALARIES; EXPENSES. The salaries of all officers and employees of the department of conservation shall be in full payment for all services that may be rendered by them in the performance of their duties; but they shall be entitled to reimbursement for actual necessary expenses incurred in the performance of their duties.

[1919 c. 370 s. 2] (5654)

97.38 PROSECUTIONS; BURDEN OF PROOF. In any prosecution under the provisions of chapters 97 to 102, the burden of establishing the fact that the animals alleged to have been unlawfully taken were domesticated and reared in a private preserve, or raised in a private fish hatchery, or taken for scientific purposes, or lawfully taken without this state, shall rest upon the defendant.

[1919 c. 400 s. 119] (5625)

97.39 VIOLATIONS; PENALTIES. Subdivision 1. **Misdemeanors.**

(1) Unless a different penalty or punishment is specifically prescribed, a person who buys, offers to buy, sells, offers for sale, takes, possesses, or transports any wild animal, or any part thereof, in violation of any of the laws of this state relating to wild animals, or to the preservation, protection, or propagation thereof, or who violates any of the provisions of, or who fails to perform any duty imposed by, chapters 97 to 102, or who violates any duly adopted regulation of the commissioner, or any person who attempts to do so, is guilty of a misdemeanor; and, upon conviction, shall be punished by a fine of not less than \$10.00, nor more than \$100.00, for the first offense, nor less than \$25.00, nor more than \$100.00, for subsequent offenses,

or by imprisonment in the county jail for not less than 30 days, nor more than three months; and each wild animal bought, sold, offered for sale, taken, possessed, or transported in violation of law shall constitute a separate offense;

(2) The minimum punishment for violating any of the provisions of chapter 102, relating to commercial fishing, shall be a fine of \$50.00 or imprisonment in the county jail for 60 days;

(3) A person who buys, offers to buy, sells, offers for sale, takes, possesses, or transports any of the following wild game or game birds, or any part thereof, in violation of any of the provisions of chapters 97 to 102, shall be punished as follows:

(a) Deer, by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30, nor more than 90, days;

(b) Moose, elk, and caribou, by a fine of not less than \$75.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30, nor more than 90, days;

(c) Game birds, by a fine of not less than \$10.00, and not to exceed \$100.00, for each bird, or by imprisonment in the county jail for not less than ten, nor more than 90, days;

(d) The use of an artificial light in hunting shall be punished by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30, nor more than 90, days;

(4) Any person found guilty of a violation of the provisions of sections 98.14 or 100.04 shall be punished by a fine of not less than \$75.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30, nor more than 90, days;

(5) A violation of the provisions of section 101.38 shall be a misdemeanor and punishable by a fine of not less than \$10.00, nor more than \$25.00, or by imprisonment in the county jail for not less than ten, nor more than 20, days;

(6) Violation of any regulation prescribed by the director of game and fish under section 98.42 and sections 101.30 to 101.34 shall be deemed a violation of such sections, and shall be a misdemeanor;

(7) Violation of any provision of section 100.06 relating to artificial lights shall be a misdemeanor; and, upon conviction, punishable by a fine of not less than \$25.00, nor more than \$100.00, or by imprisonment in the county jail for not less than 30, nor more than 90, days.

Subdivision 2. **Gross misdemeanors.** (1) Every person who shall falsely impersonate a game warden or game refuge patrolman or other officer acting by or under authority of the laws relating to wild animals, or a private individual having special authority thereunder 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; and, upon conviction, shall be punished by a fine of not less than \$100.00, or by imprisonment in the county jail for not less than 30 days, nor more than one year, or by both such fine and imprisonment;

(2) ~~Any person who violates any of the provisions of sections 101.14 and 102.03, or any rules or regulations promulgated under the authority of those sections, shall be guilty of a gross misdemeanor; and, upon conviction, his license shall become null and void and no similar license shall be issued to him for a period of one year following the date of conviction;~~ ^{R 943-229-8}

(3) The placing of a set gun shall be a gross misdemeanor;

(4) Any one setting steel traps, for the purpose of taking or catching bear, so as to become a danger to persons walking in the woods, shall be guilty of a gross misdemeanor;

(5) Any person who shall unlawfully take, possess, transport, sell, or otherwise dispose of any beaver, or any part thereof, shall be guilty of a gross misdemeanor; and, upon conviction, punished by a fine of not less than \$50.00, nor more than \$500.00, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment;

(6) Violation of any provision of section 100.06 relating to set guns or swivel guns shall be a gross misdemeanor.

[1919 c. 400 ss. 16, 45, 47, 49; 1921 c. 44 s. 3; 1921 c. 263 s. 2; 1921 c. 450 s. 2; 1923 c. 342; 1923 c. 426 s. 1; 1925 c. 380; 1927 c. 333; 1929 c. 84 ss. 3, 7; 1929 c.

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417 s. 6; 1929 c. 418 s. 2; 1931 c. 399 s. 2; 1933 c. 49 s. 5; 1933 c. 369 s. 2; 1933 c. 392 ss. 3, 7; 1937 c. 236 s. 3; 1939 c. 121; ~~1939 c. 380 s. 3~~; 1939 c. 424 ss. 1, 3; 1941 c. 60 s. 2; 1941 c. 366; 1941 c. 482] (5510) (5537-1) (5539) (5541) (5543) (5574-4) ~~(5574-6) (5592-3) (5592-7) (5592-14) (5642)~~