



Department of Natural Resources Fact Sheet



2011 POLICY FACT SHEET DNR Game and Fish Bill

It is needed because

This bill contains a variety of miscellaneous game and fish policy provisions, many of which were previously passed in a bill (2010 SF2900) that was vetoed in 2010. Each provision that passed in 2010 is noted as such in the overview section.

This language relates to game and fish, modifying: elk damage compensation, fish collecting and health requirements, planning requirements, acquisition procedures, licensing procedures, certain reporting requirements, certain penalties, wild animal taking, possession, transportation and licensing requirements; clarifying: fishing contest requirements; amending: Minnesota Statutes; and repealing: Minnesota Statutes.

OVERVIEWS

Sections 1, 2, and 19

Elk Damage

This language broadens existing statutes to include pasture and fences around cropland and pasture as property that landowners are eligible to receive compensation for when damaged by elk in the wild elk range of Minnesota. The language also increases the value of emergency deterrent materials assistance for landowners and adds elk damage to the cooperative damage management agreement statute.

Sections 3 through 8 (Passed in 2010 Game & Fish Bill)

Fish Collection and Health Inspection

This language establishes criteria for certifying “fish collectors” for sampling fish for disease testing; clarifies fish health inspection and testing requirements, and adds additional terms used to identify a fish health inspector.

Section 9 (Passed in 2010 Game & Fish Bill)

Sucker Eggs

This language removes the licensed water acreage requirement for obtaining sucker eggs; establishes criteria for the commissioner to allocate distribution of sucker eggs to licensed individuals.

Sections 10 and 11 (Passed in 2010 Game & Fish Bill)

Fish and Wildlife Planning

Technical change eliminates obsolete language relating to fish and wildlife planning requirements.

Sections 12 and 14

Escape of Nonnative Feral Swine

This language prohibits the release of any swine into the wild and establishes criminal penalties for doing so. Also requires reporting of any release of swine to the commissioner within 24 hours.

Section 13 (Passed in 2010 Game & Fish Bill)

Bait Harvest in Infested Waters

This language clarifies provisions on harvest of bait from infested waters that are designated because they contain certifiable diseases of fish.

Section 15, 31-32, and 47

Game Bird definition expanded to include Sandhill Crane; License Required and Fees established

This language expands the definition of a “game bird” to include sandhill crane, adds a 97B.732 that requires a license in order to take a sandhill crane, and establishes license fees.

Section 16

Undressed Bird Definition

Modifies existing language regarding the definition of an undressed bird for the purposes of transportation. New language simplifies existing statute by eliminating certain options.

**Section 17 (Passed in 2010 Game & Fish Bill)
Unprotected Birds Definition Expanded**

This language adds Eurasian collared doves to the definition of unprotected birds. Eurasian collared doves are a non-native and potentially invasive species very similar in size and appearance to the mourning dove.

**Section 18
Wild Animals Definition**

The state's game and fish laws are based on the ability of the state to regulate and manage wild animals – whether dead or alive, and parts thereof. This provision would clarify that the term and regulation of wild animals includes animals that are dead/carcasses as well as wild animals that are currently alive (Swenson v State Appeals Court decision). Currently, a provision in the game and fish laws relating to a wild animal applies in the same manner as “parts” of wild animals, and this change would clearly extend to parts of wild animals. Without this clarification, the state's ability to protect, manage, and regulate wild animals is severely limited. *M.S. 97A.015.55*

**Section 20 (Passed in 2010 Game & Fish Bill)
Minnow Harvest in Designated Wildlife Lakes**

This language allows the taking of minnows to be restricted on lakes designated for wildlife management purposes under M.S. 97A.101.

**Section 21 (Passed in 2010 Game & Fish Bill for lands south of Highway 2)
Acquisition Procedure**

This language permits the commissioner or the owner of land proposed to be acquired to submit a proposed acquisition directly to the Land Exchange Board if the commissioner or owner maintains that county board disapproval of the acquisition was arbitrary and capricious, that the reasons stated for disapproval were invalid, or that the acquisition would be in the public interest.

**Section 22 (Passed in 2010 Game & Fish Bill)
License Refunds**

This language clarifies that license refunds may be issued for requests made within 90 days of purchase and allows refunding license fees if the applicant is not required by law to purchase a license to participate in the activity.

**Section 23
Dog Owner Responsibility; Dogs Mortally Wounding Deer**

These changes would provide a more appropriate penalty to the game and fish fund assessed to owners of dogs who mortally wound deer, as compared to chasing deer. The owner of a dog that mortally wounds a deer would be liable for the higher \$500 civil penalty, the same penalty as killing a deer, rather than the lower \$100 civil penalty for dogs pursuing deer. Example: There was a civil case where the officer killed the deer that was hamstrung, and the ALJ ruled only the lower civil penalty could be applied under current language. *M.S. 97A.321.1*

**Section 24 (Passed in 2010 Game & Fish Bill)
Penalty for Hunting Big Game When License is Revoked**

This language makes it a gross misdemeanor to take big game during the time a person is prohibited from obtaining a license to take big game. These violators have already been convicted of at least one big game violation (often multiple violations) and choose to hunt without a license while their big game hunting privileges are revoked. *M.S. 97A.331.4a*

**Section 25
Stamp Cost**

Currently, a pictorial stamp is not required to be in possession while hunting pheasants, waterfowl, or angling for trout. The Turkey stamp is not required to turkey hunt. Anyone who wishes to obtain a pictorial stamp must currently pay \$2.00. This language would reduce the cost to the customer to receive a pictorial stamp to be more in line for the cost of issuing such stamps.

**Section 26
License Transfer**

This language provides for transfer of a license, as prescribed by the commissioner, for use by a person with a severe disability or critical illness who is participating in hunting or fishing program sponsored by a nonprofit organization.

**Section 27
Taxidermy, Tanning, and Dealer Reporting Clarification**

These changes would provide authority for the commissioner to authorize format of sales receipt and reporting forms. The records and reporting forms are currently paper forms that are provided by the department in multiple part forms. Commercial operators that are utilizing computerized record

keeping would find this option more flexible and time saving for their business. Authority is also being provided to make parallel modifications to the associated rules using an exempt rule making process to speed up implementation. *M.S. 97A.425.3; MR 6242.0900.13; 6242.1000.1*

Section 28 (Passed in 2010 Game & Fish Bill)
Elk License Selection

This language requires the commissioner to hold a separate drawing for 20 percent of the elk licenses issued each year for previously unsuccessful applicants who have applied at least ten times.

Section 29 (Passed in 2010 Game & Fish Bill)
Turkey License Issuance

This language clarifies authorities of the commissioner for issuing licenses to take wild turkeys.

Section 30 (Passed in 2010 Game & Fish Bill)
Ice Fishing Without a License in State Parks

This language expands authorization to fish in state parks without a license to include ice fishing.

Section 33
Nonresident Youth License Fee Clarification

Clarify that nonresident fishing surcharge does not apply to youth.

Section 34
Penalty Options for Possession of Unlawful Fish from Canada

This technical change would allow a payable citation to be utilized for persons who enter Minnesota from Canada while possessing fish that were unlawfully taken or possessed in Canada. Conservation officers issue citations for unlawful possession of fish taken in Canada after being contacted by Customs at border crossings. Most often, the persons cited are residents of other states who generally prefer to be able to pay the fine/penalty on the spot before continuing home, rather than returning to Minnesota for mandatory court appearances. These changes do not create a new violation or prohibition, and would simplify enforcement, prosecution, and court processes for these violations as continuation of current and past practice. *M.S. 97A.505*

Section 35 (Passed in 2010 Game & Fish Bill)
Game Bird Transportation

This language clarifies that doves may be shipped or transported in accordance with federal law. Current

federal law allows doves to be shipped and transported fully dressed.

Section 36 (Passed in 2010 Game & Fish Bill)
Parent or Guardian Responsibility

These changes would provide an option to cite the mentoring adult for knowingly permitting the youth to hunt in violation of the game and fish laws. Recent changes allow 10 and 11 year olds to hunt deer and all youth small game hunters are now required to have a small game license. With these changes, these young hunters will need to be mentored by the accompanying adult. There is similar language regarding responsible adult/owner requirements in the recreational vehicle laws. *M.S. 97B.0215*

Section 37 (Passed in 2010 Game & Fish Bill)
Apprentice Hunter Validation Requirements

This language modifies the qualifying age for obtaining an apprentice hunter validation; allows use of apprentice validation to hunt without a firearms safety certificate if accompanied two years in a lifetime instead of one year.

Sections 38, 40, and 42 (Passed in 2010 Game & Fish Bill)

Medical Evidence for Disability Permits

This language makes technical changes to allow certified nurse practitioners and certified physician assistants working under the direction of licensed physicians to complete the medical evidence information required for various disability hunting permit applications. These include applications for permits to shoot from a stationary motor vehicle, use a crossbow, or use a scope for the muzzleloader deer season. This proposal accommodates changes in the health care industry and recognizes those who commonly provide these services in addition to licensed physicians. These changes will facilitate the permit application process for all parties involved. *M.S. 97B.031.5; 97B.055.3; 97B.106.6*

Section 39
Possession of Firearms and Ammunition During the Muzzleloader Deer Season

These changes would provide that muzzleloader hunters, hunting during the muzzleloader deer season, may not possess centerfire firearms that are legal to take big game animals, but would continue to allow the possession of firearms such as .22 rimfire and .17 caliber for small game, in the same manner as current law for the regular firearms deer season. *M.S. 97B.041*

Section 41

Hunting Restrictions between Evening and Morning

This language establishes that 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, thereby eliminating the existing statutory language regarding big game and waterfowl shooting hours.

Section 43 (Passed in 2010 Game & Fish Bill, but specified deer, elk and moose, and excluded private land)

Big Game Stand Restrictions

This language provides a consistent stand height restriction of 16 feet for non-portable stands for all big game species. Current law prescribes a maximum height of 16 feet for deer; 9 feet for moose and elk, and no limit for bear (see repealer, section 57).

Section 44

Bear Hunter Drawings

This language eliminates "second choice" bear permit applications. "Second choice" permit applications had the unintended consequence of eliminating surplus bear permits, which are important to some bear guides and their clients. (License purchase and cut-off provisions passed in the 2010 Game & Fish Bill are currently in process, by Rule, and will be effective this year.)

Section 45 (Passed in 2010 Game & Fish Bill)

Taking Elk Causing Damage or Nuisance

This language provides the commissioner with authority to issue licenses to hunters to take elk that are causing damage or nuisance from September 1 to March 1. The language exempts licensees under this provision from the "once-in-a-lifetime" provision in M.S. 97A.433, subdivision 2, clause (2).

Section 46 (Passed in 2010 Game & Fish Bill)

Shooting Grouse near Motor Vehicles

This language prohibits the shooting of grouse near a motorized vehicle unless the person is at least 10 feet from the vehicle and the vehicle's engine is shut off. This prohibition would not apply to a person with a disability permit to shoot from a stationary motor vehicle.

Section 48 (Passed in 2010 Game & Fish Bill)

Waterfowl Seasons

This language eliminates the prohibition on opening the duck season prior to the Saturday nearest October 1 and would continue to require the commissioner to prescribe waterfowl seasons in accordance with federal law.

Section 49 (Passed in 2010 Game & Fish Bill)

1837 Ceded Territory Fishing Regulations Adjustments

This language allows the commissioner to make midseason adjustments in daily possession, or size limits on special management waters in the 1837 Ceded Territory by written order published in the State Register. The changes are based on available harvest, angling pressure, and population data and limited to those necessary to manage the fisheries in compliance with the court orders in *Mille Lacs Band of Chippewa v. Minnesota*, 119 S. Ct. 1187 (1999).

Sections 50 and 51

Fishing Contest Permits Clarification

The current language that defines the criteria that trigger a need for a fishing contest permit is confusing. This initiative would clarify when a permit is not needed.

Section 52 (Passed in 2010 Game & Fish Bill)

Sturgeon Tag Clarification

This language clarifies that only one tag application may be made per calendar year. The expanded fishing license year established by the legislature (March 1 – April 30 of the following year) made it possible to make multiple applications on different licenses for lake sturgeon tags for one harvest season. This change ensures that no more than one season limit of sturgeon could be taken and tagged per calendar year.

Section 53 (Passed in 2010 Game & Fish Bill)

Transporting and Stocking Fish

This language authorizes the commissioner to prohibit transportation of live fish by youth for aquarium purposes to help prevent spread of an emergency fish disease documented to occur in Minnesota waters.

Section 55 (Passed in 2010 Game & Fish Bill)

Using Aquatic Life for Bait

This language allows the commissioner to authorize the use of game fish eggs as bait and to prescribe restrictions on their use. It also extends the current prohibition on "bait" being imported from VHS positive waters to include any bait used for taking wild

animals. It also provides for use of smelt or cisco for bait in Lake Superior that is taken from Lake Superior, as prescribed.

Section 56 (Similar provisions passed in 2010 Game & Fish Bill)

State Walk-in Access Program

This language establishes that land enrolled in the state walk-in access program is for the purposes of sections 604A.20 to 604A.27, land that an owner has made available without charge for recreational purposes, thus provides a level of liability protection for participating landowners.

Section 57

Rulemaking

Directs commissioner to amend MN Rules, parts 6242.0900, subpart 13, and 6242.1000, subpart 1, to allow an option for game farm licensees to use approved report and sales receipt formats, and allows for commissioner to use good cause exemption.

Section 58 (Certain repeals passed in 2010 Game & Fish Bill, as noted below)

REPEALER

Minnesota Statutes 2010, sections 84.942, subdivisions 2, 3, and 4; 97A.015, subdivisions 26b, 27b, and 27c; 97A.435, subdivision. 5; 97B.511; and 97B.515, subdivision 3; and 97C.081, subdivision 2, are repealed. Repealed provisions relate to the changes in fish and wildlife planning requirements (**Passed in 2010 Game & Fish Bill**), deer area definitions, fishing contests, wild turkey licensing (**Passed in 2010 Game & Fish Bill**), and big game stand height requirements (**Passed in 2010 Game & Fish Bill**).

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