

## **CHAPTER 20.1-08 GOVERNOR'S PROCLAMATIONS**

### **20.1-08-01. Orders and proclamations have force of law - Penalty.**

Any order or proclamation issued by the governor pursuant to this chapter has the force of law. Any person who violates a provision of such order or proclamation for which a noncriminal penalty is not provided for in the order or proclamation is guilty of a class B misdemeanor. The maximum noncriminal penalty that may be set in an order or proclamation is a fine of two hundred fifty dollars.

### **20.1-08-02. Governor may vary statutory open and closed season by order or proclamation.**

Whenever the governor, after investigation and recommendation by the director, finds:

1. That any species of wildlife for which an open season is provided, are in danger of depletion or extinction, or when necessary for proper protection during the propagating period, the governor may, by order, provide protection for that species additional to that provided by law.
2. That any species of wildlife have become sufficient in numbers to warrant an open season, or to be detrimental, or a nuisance to the farmers of the state, the governor may, by order, declare an open season thereon, or may extend the open season provided by law.
3. That any species of fur-bearing animals have become sufficient in numbers to warrant an open season or have become a menace to other species of wildlife in the state, the governor may, by order, declare an open season thereon, or may extend the open season provided by law.
4. That due to climatic conditions a hunting season may create a fire hazard, the governor may, by order, close or postpone, and reopen, any hunting season in areas where these conditions exist, upon reasonable notice through the media. The emergency closing or postponement and reopening can be accomplished without complying with section 20.1-08-05.

### **20.1-08-03. Limitations on governor's powers.**

The governor may not establish bag limits on upland game birds which exceed fifteen birds in the aggregate.

### **20.1-08-04. Contents of governor's order or proclamation relating to the taking of big game, small game, fish, and fur-bearers - Special permits.**

1. A gubernatorial order or proclamation under this chapter must prescribe, as to each species of wildlife named therein, the following:
  - a. In what manner they may be taken.
  - b. In what numbers they may be taken and possessed and may limit the numbers by sex.
  - c. In what places they may be taken.
  - d. At what times they may be taken and possessed.
2. The governor in the governor's proclamation or order may determine the number of resident and nonresident big game licenses to be issued for the taking of each species, age, or sex. When a limited number of big game licenses or special permits are to be issued, the governor shall by order or proclamation declare the manner of issuance of the licenses and permits. The governor may by proclamation or order determine the time period for which a recipient of a big game license or special permit obtained by lottery is ineligible to apply for the same type of license or special permit.
3. In addition to the regular big game hunting licenses, the governor, by order or proclamation, may authorize the issuance of special permits to hunt big game in certain restricted areas. When acting pursuant to this subsection, the governor shall designate in the proclamation:

- a. The species of big game which can be hunted.
- b. The boundaries of the restricted area.
- c. The number of special permits to be issued.
- d. The procedure to determine which applicants should receive the special permits.
- e. The manner and times in which the big game may be taken.

Special permits issued under this subsection shall be issued in strict compliance with the governor's proclamation.

**20.1-08-04.1. Governor's proclamation concerning the hunting of bighorn sheep - Minnesota-Wisconsin chapter of the foundation for North American wild sheep raffle or auction - Certain license recipients not eligible to apply again.**

The governor may by proclamation provide for a season to hunt bighorn sheep in the manner, number, places, and times as the governor prescribes. Licenses to hunt bighorn sheep must be issued by lottery; however, the governor may by proclamation make available to the Minnesota-Wisconsin chapter of the foundation for North American wild sheep a license to hunt bighorn sheep in the manner, places, and times as the governor prescribes. Upon payment of the nonrefundable application fee required by section 20.1-03-12.2, a nonresident may participate in the state lottery. One license to hunt bighorn sheep may be issued to a nonresident participating in the state lottery. If a nonresident is issued a license to hunt bighorn sheep, no other nonresident may be issued a license to hunt bighorn sheep through the state lottery. If all of the licenses to hunt bighorn sheep made available through the state lottery are issued to residents, then a nonresident is not eligible to be issued a license to hunt bighorn sheep through the state lottery. The Minnesota-Wisconsin chapter of the foundation for North American wild sheep shall hold either a raffle or an auction under rules adopted by the director with residents and nonresidents eligible to participate. Ten percent of gross raffle proceeds may be retained by the Minnesota-Wisconsin chapter of the foundation for North American wild sheep and ninety percent of gross raffle proceeds must be remitted to the department. All auction proceeds must be remitted to the department. Individuals who receive a license through the raffle or auction may not transfer the license. Individuals may participate in the state lottery and the raffle or auction; however, individuals may not receive more than one license in any one year. An individual may only receive one license to hunt bighorn sheep through the state lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

**20.1-08-04.2. Governor's proclamation concerning the hunting of moose - Raffle.**

The governor may by proclamation provide for a season to hunt moose in a manner, number, places, and times as the governor prescribes. Licenses to hunt moose must be issued by lottery, except as provided under subsection 8 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation one license per year to hunt moose in a manner, places, and times as the governor prescribes. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. The person who receives the license from the raffle may not transfer the license. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle. Fifty percent of all net proceeds must be used for elk management or other wildlife and in conservation-related projects in this state as described under rocky mountain elk foundation policies and objectives. All remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The North American wildlife enforcement memorial museum and educational center and the rocky mountain elk foundation shall submit reports concerning the raffle as the director requires. A person may only receive one license to hunt moose issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

**20.1-08-04.3. Governor's proclamation concerning fishhouses.**

The governor may by proclamation prescribe those areas where a fishhouse, used or to be used while ice fishing, or a dark house, used or to be used for spearfishing, is permitted. Such proclamation may set forth the dates during which fishhouses or dark houses may be used or that date by which fishhouses or dark houses must be removed from the ice.

**20.1-08-04.4. Governor's proclamation concerning underwater spearfishing.**

The governor shall by proclamation provide for a season for resident underwater spearfishing for game fish in this state in a manner as the governor shall prescribe.

**20.1-08-04.5. Governor's proclamation concerning the hunting of deer with muzzleloading firearms.**

The governor shall by proclamation provide for a muzzleloading firearm season following the regular deer hunting season to hunt deer with muzzleloading firearms in the manner, number, places, and times as the governor prescribes. Licenses to hunt deer with muzzleloading firearms must be issued by the director by lottery as prescribed by the director. The director shall issue two percent of the total white-tailed deer gun licenses available each year to hunters with muzzleloading firearms. Of the two percent, one-half of the licenses issued may be for antlered white-tailed deer.

**20.1-08-04.6. Governor's proclamation concerning the hunting of elk - Rocky mountain elk foundation raffle.**

The governor may by proclamation provide for a season to hunt elk in a manner, number, places, and times as the governor prescribes. Licenses to hunt elk must be issued by lottery, except as provided under subsection 7 of section 20.1-03-11, with only residents eligible to apply; however, the governor may by proclamation make available to the rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center a license to hunt elk in a manner, places, and times as the governor prescribes. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall hold a raffle under rules adopted by the director with residents and nonresidents eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and fifty percent of all net proceeds must be used for elk management or other wildlife and conservation-related projects in North Dakota as described under rocky mountain elk foundation policies and objectives and all remaining net proceeds must be used for construction and maintenance of the North American wildlife enforcement memorial museum and educational center located at the international peace garden. The rocky mountain elk foundation and the North American wildlife enforcement memorial museum and educational center shall submit reports concerning the raffle as the director requires. An owner of farmed elk who is experiencing elk depredation problems may contact the director. Upon investigation, the director may issue special elk depredation management licenses. The governor by proclamation shall establish a procedure to issue elk depredation management licenses in a timely manner. Except for landowners who receive a license under subsection 7 of section 20.1-03-11 and landowners who receive special elk depredation management licenses issued to landowners under subsection 7 of section 20.1-03-11, and persons who receive a special elk depredation management license issued by lottery under this section, a person may only receive one license to hunt elk issued by lottery in a lifetime. An individual who has been convicted of illegally taking a moose, elk, or bighorn sheep is not eligible to apply for or receive a license under this section.

**20.1-08-04.7. Governor's proclamation concerning the hunting of predators.**

Notwithstanding any other provision of law, the governor may provide by proclamation for the taking of any wildlife, whether protected or unprotected, determined by the governor to be a harmful predator, in a manner and number, at any place, and during any time, including after dark, as the governor prescribes.

**20.1-08-04.8. Governor's proclamation concerning the hunting of mule deer - Mule deer foundation raffle and auction.**

By proclamation, the governor may make available to the mule deer foundation one license per year to hunt mule deer in the manner, places, and times as the governor prescribes. The mule deer foundation shall hold a raffle or by proclamation the governor may auction to the highest bidder, whether resident or nonresident, a license to hunt mule deer in the manner, places, and times the governor prescribes. If an individual receives a mule deer license through the raffle or the auction, the individual is not eligible to apply for a mule deer license through the game and fish department that year. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds of the raffle and all proceeds of the auction must be used for mule deer management and related projects in North Dakota. The mule deer foundation shall submit reports concerning the raffle as the director requires.

**20.1-08-04.9. Small game proclamation - Pheasants.**

The governor, in the governor's proclamation, shall prohibit a nonresident from hunting for the first seven days of the pheasant season on land owned or private land enrolled by the department for the purposes of hunting or on land for which the department pays in lieu of tax payments.

**20.1-08-04.10. Governor's proclamation concerning restrictions on cervidae carcass importation due to chronic wasting disease.**

The governor, through proclamation or executive order, may restrict the importation and disposition of the carcass or carcass parts of any animal in the family cervidae taken from any areas within states or provinces that have documented cases of chronic wasting disease in wild populations or taken from captive hunt or farm facilities.

**20.1-08-04.11. Governor's executive order or proclamation declaring animal health emergency.**

In accordance with chapter 37-17.1, the governor may declare an animal health emergency upon determining that the wildlife of this state are at risk from diseases imported by foreign animals, a foreign animal disease, bioterrorism event, or an emerging animal disease. Upon the declaration of an animal health emergency the governor, after consultation with the state veterinarian or board of animal health, may order the sampling, destruction, and disposition of wildlife populations, as the governor deems necessary to abate the animal health emergency.

**20.1-08-04.12. Governor's proclamation concerning the hunting of antelope - North Dakota hunter educators association raffle.**

By proclamation, the governor may make available to the North Dakota hunter educators association one license per year to hunt antelope in the manner, places, and times as the governor prescribes. The North Dakota hunter educators association shall hold a raffle under rules adopted by the director. Only residents are eligible to participate. No more than ten percent of the gross proceeds of the raffle may be used to promote the raffle and all net proceeds of the raffle must be used for sponsoring mentored hunts for youth who may otherwise not have the means to go afield to hunt; establishing a statewide network of shooting locations for youth to become familiar with archery equipment and firearms under the supervision of a certified volunteer hunter education instructor; and purchasing advertising in news media during hunting season concerning firearms safety and hunting ethics and the promotion of safe and responsible hunting. If an individual receives an antelope license through the raffle, the individual is not eligible to apply for an antelope license through the game and fish department that year. The North Dakota hunter educators association shall submit reports concerning the raffle as the director requires.

**20.1-08-04.13. Governor's proclamation concerning once-in-a-lifetime big game hunts for terminally ill children - Rules.**

By proclamation, the governor may make available annually to one organization up to eight deer licenses and four antelope licenses to hunt the species indicated on the license in the manner, places, and times as the governor prescribes. The organization shall make one license available to each qualified child to hunt the species of big game indicated on the license as provided in the governor's proclamation. A qualified child receiving a license under this section must comply with hunter education requirements and, if under the age of eighteen, must be accompanied by an adult twenty-one years of age or older. The director may adopt rules to implement this section. As used in this section, "organization" means a nonprofit organization qualified under Internal Revenue Code section 501(c)(3) with the principal purpose of granting hunting and fishing adventures for children who have been diagnosed with a terminal illness by a licensed physician and "qualified child" means a terminally ill individual who is of legal age to hunt the species for which the license is valid but under twenty-one years of age, is a resident, and is sponsored by an organization that provides to the department supporting documentation demonstrating compliance with this section.

**20.1-08-05. Proclamation to be published - Exceptions - Period proclamation is in effect.**

Except as provided in subsection 4 of section 20.1-08-02, a summary of each order or proclamation issued by the governor pursuant to this chapter must be published once in the official newspaper of each county affected thereby. The summary must include a list of the species that may be harvested, the date that the season for each species opens and closes, the daily and possession limits for each species, any changes in regulations from the previous year, and any changes in units opened or closed to hunting or fishing from the previous year. The summary must also list the address and telephone number of the game and fish department and state that a copy of the complete legal proclamation may be obtained from the department. No order or proclamation becomes effective until after the department prints each complete proclamation or order and distributes a copy to each county auditor affected thereby.