

CHAPTER 20.1-10 CONFISCATION

20.1-10-01. Property unlawfully taken, transported, or used to be confiscated by certain game and fish officials - Procedure.

The director, deputy director, or any bonded game warden shall seize all wild birds, wild animals, or fish, or any part thereof, taken, killed, or possessed, or transported contrary to law, and shall seize all dogs, guns, seines, nets, boats, lights, automobiles, vehicles, instrumentalities, appliances, and devices unlawfully used, or held with intent to be unlawfully used, in pursuing, taking, or attempting to take, concealing, or disposing of wild birds, wild animals, or fish, or any part thereof. Property used or held with the intent to be used unlawfully in pursuing, taking, attempting to take, concealing, or disposing of wild birds, wild animals, or fish may not be confiscated when the violation is a noncriminal offense. All property seized must be held subject to the order of a court of competent jurisdiction. When property is confiscated, the confiscating officer shall bring the alleged offender before a court of competent jurisdiction for the purpose of determining disposition. However, if the court having nominal jurisdiction over the alleged wrongdoer determines that the value of the confiscated property exceeds the court's jurisdictional limitations, the matter may, upon the motion of either party, be removed to district court for determination. If the alleged offender desires an attorney, a reasonable time must be given to secure counsel. If it is not feasible to bring the alleged offender immediately before the court, the property may not be seized or confiscated if the alleged offender gives a receipt to the officer assuring delivery before the court when the matter comes up. The receipt must contain the provisions of this section to advise the alleged offender of the law.

20.1-10-02. Wildlife packed or commingled with contraband must be confiscated.

If any wildlife, or parts thereof, is packed, stored, or contained in the same shipment, bag, or other receptacle or is otherwise commingled, and one or more has been taken in violation of this title, the entire contents must be confiscated.

20.1-10-03. Confiscated property - Courts having jurisdiction - Requisites for disposition.

A court having jurisdiction of an alleged offense against this title may order the disposition of all birds, animals, or fish, or any part thereof, or other property that has been confiscated. This order may be entered only after a hearing duly had upon proper notice to the owner and after due and proper finding by the court that the property:

1. Was taken, killed, possessed, or being transported contrary to law by the person from whom it was seized.
2. Was being used in violation of this title at the time it was seized.
3. Had been used in violation of this title within six months previous to the time it was seized.

20.1-10-04. Who to sell confiscated property - Bills of sale - Disposition of proceeds of sale.

All confiscated property that a court has ordered to be disposed of by the director must be turned over to the North Dakota wildlife federation to be sold for the highest price obtainable. On any sale of animals, birds, or fish, or parts thereof, the seller shall issue to each purchaser a bill of sale on forms prepared and furnished by the director. The sale proceeds, after the expenses of the seizure and the sale are deducted, must be remitted to the North Dakota wildlife federation report all poachers fund. The remittance must be accompanied by a complete and certified report of the sale supported by proper vouchers covering all deductions made for expenses. This report must be filed for record with the director.

20.1-10-05. Confiscated perishable property may be sold without court order - Who may sell.

Perishable property confiscated pursuant to this chapter may be sold without a court order by the officer making the seizure for the highest price obtainable. The proceeds of such sale must be deposited in a court of competent jurisdiction to await disposition by the court.

20.1-10-06. Search warrants - Issuance - Contents.

Whenever any person makes a complaint to any judge having authority to issue warrants in criminal cases that the person knows or has good reason to believe that any wild animal, bird, or fish, or any part thereof, taken, killed, or possessed contrary to this title, is concealed in any particular house or place, or in the living quarters of any person, the judge shall examine such complainant on oath, reduce the complaint to writing, describing as particularly as possible the place where such wild animal, bird, or fish, or part thereof, is alleged to be concealed, and cause such written complaint to be subscribed by the complainant. If it appears to the judge there is reasonable cause to believe that the facts alleged in the complaint are true, the judge shall issue a warrant containing the substance of the complaint and the description of the premises. This warrant must require the officer to whom it is directed forthwith to search such premises; to seize any wild animal, bird, or fish, or part thereof, found on such premises; and to bring them and the person in whose possession they are found, before the judge who issued the warrant, or before some other judge having jurisdiction.

20.1-10-07. Property seized under warrant - Officer's return to describe - Safekeeping - Disposal.

Any officer executing a warrant issued pursuant to section 20.1-10-06 shall, in the officer's return, describe the property seized with as much particularity as possible. The seized property must be safely kept upon direction of the judge as long as necessary to use as evidence. If a conviction is obtained, either by trial or by plea of guilty, the seized property must be disposed of under an order of the court before whom the prosecution was brought.