

CHAPTER 20.1-06 FISH, FROG, AND TURTLE REGULATIONS

20.1-06-01. General penalty.

Any person violating a provision of this chapter for which a penalty is not specifically provided is guilty of a class B misdemeanor.

20.1-06-02. Fish protected - Penalty.

No person may take, attempt to take, catch, kill, or destroy any species of fish in this state except as provided in this title. Any person who takes into possession and kills or destroys any paddlefish or pallid sturgeon in violation of this title is guilty of a class C felony.

20.1-06-03. Legal size of fish.

No person may take, catch, kill, or have in the person's possession or under the person's control any fish smaller than that prescribed by the governor's order and proclamation. Any person catching a fish under the legal size limit shall immediately return it to the water with as little harm as possible.

20.1-06-04. Possession of seines, setlines, fishtraps.

No person, except as provided in sections 20.1-06-05 and 20.1-06-06, may set, use, or have in that person's possession, or transport other than by public carrier, any setnets, seines, setlines, or fishtraps. Violators are deemed to be in possession of a public nuisance, and the director, any bonded game warden, or any peace officer shall, without warrant or process, seize the items and hold them subject to the order of a court of competent jurisdiction.

20.1-06-05. Removing undesirable fish.

The director, any person authorized by the director, or anyone contracting with the director, may kill or take fish from waters of this state in any manner prescribed by the director when in the director's judgment it is in the best interest of public fishing. All such fish must be disposed of at the director's discretion. Money derived from the disposal must be deposited in the state treasury and credited to the game and fish fund. All money received and expended must be itemized, and written records thereof must be kept in the director's office. Any person desiring to contract with the director to take such fish, as determined by the director, from the waters of this state, by means of not more than five hoop-nets or traps, not more than five setlines of ten hooks, or not more than one hundred feet [30.48 meters] of seine, must be awarded the contract upon payment of the appropriate fee. These contracts may not specify the disposition of the fish.

20.1-06-06. Illegal methods for taking fish.

No person except as provided in sections 20.1-06-04 and 20.1-06-05 may lay, set, or use any drug, poison, lime, medicated bait, fishberries, dynamite, or other lethal or injurious substance whatever; or lay, stretch, or place any tip-up snare, trap, set, or trotline, wire string, rope, or cable of any sort in any of the waters of this state for the purpose of catching, taking, killing, or destroying any fish. However, any person may take minnows by the use of a minnow trap or dip net not exceeding twenty-four inches [60.96 centimeters] in diameter or thirty-six inches [91.44 centimeters] in depth. Except as provided in this section, dip nets may only be used as an aid in landing fish which have been legally taken by hook and line. One minnow trap per licenseholder, other than those holding a bait vendor's license, may be used for the purpose of taking bait minnows. Such trap may not be larger than specified in the governor's proclamation and must be emptied at least once every forty-eight hours.

20.1-06-07. Fishhouses - Removal - Penalty.

1. A person may erect, have, or maintain on the ice in any waters of this state a fishhouse, used or to be used while ice fishing, or a dark house, used or to be used for spearfishing. Fishhouse and dark house owners are subject to the rules the director

may adopt governing the construction, maintenance, and use of these units. The outside of each unoccupied unit must have inscribed on it, in readily distinguishable characters at least three inches [7.62 centimeters] high, the owner's name and address or telephone number. An unoccupied fishhouse or dark house left on the ice without an owner's name and address or telephone number may be removed or destroyed by the department. Any person who violates this subsection is guilty of a class 2 noncriminal offense.

2. Each unit must be removed from the ice by that date established by the governor's proclamation. Failure to remove a unit is deemed an abandonment and the director may remove or destroy abandoned units.

20.1-06-08. Governor's proclamation concerning spearfishing from dark houses.

The governor shall provide by proclamation for the taking of fish by spearing through the ice from dark houses. Spearfishing seasons, and the species that may be taken, must be by established methods provided for in the governor's order or proclamation. A nonresident may spearfish in this state if the nonresident's state of residence provides the same privilege for residents of this state. The fishing license provided for in chapter 20.1-03 includes the privilege of spearfishing.

20.1-06-09. Deposit of refuse in fishing waters.

No person, except as provided in section 20.1-06-05, may deposit any refuse or other matter which may prove harmful to fish or fish eggs, in waters wherein the state or federal government has deposited, or may deposit, fish, fish eggs, or fry, or in which fish naturally abound, except as municipalities are authorized to dispose of sewage.

20.1-06-10. Commercial sales of fish.

No sale, barter, or trading of fish abounding in any waters of this state shall be legal except that:

1. Persons authorized by section 20.1-06-05 may sell fish as directed by the director.
2. Any person, firm, corporation, or limited liability company peddling fish may do so only after obtaining a license issued by the director upon payment of the required annual fee. The person, firm, corporation, or limited liability company shall keep a full and complete record of the source of fish as prescribed by the director.
3. Any person, firm, corporation, or limited liability company operating a permanently located wholesale fish market, jobbing house, or other place for the wholesale marketing of fish, or a grocery store or retail fish market, may sell fish from its permanent location without obtaining a license, but must keep records of purchases.
4. Any person operating a private fish hatchery may sell fish owned or raised for market or for stocking waters.

20.1-06-11. Fish legally taken out of state.

Fish abounding in the waters of this state, and legally caught out of state, may be possessed, transported, or shipped in state. Evidence they have been legally caught must accompany such fish. This does not apply to persons, firms, corporations, or limited liability companies that peddle such fish or sell them from a permanently located wholesale fish market, jobbing house, or other place for the wholesale marketing of fish, or a grocery store or retail fish market which may legally possess such fish by complying with section 20.1-06-10.

20.1-06-12. Regulations governing private fish hatcheries.

Any person operating a private fish hatchery is not subject to fishing seasons, limits, legal size restrictions, or other methods of taking fish as provided in any governor's proclamation. The director may adopt rules governing the operation of private fish hatcheries. No license is required of any person for taking fish by angling at a licensed private fish hatchery operated in accordance with the rules of the director. The hatchery operator shall furnish to each person taking fish a written certificate in the form the director prescribes, giving the number and

description of the fish taken and other information as the director requires, whereupon the fish may be possessed, shipped, or transported within the state in like manner as fish taken by residents under a license. The director shall issue an annual license to operate the hatchery during a calendar year or a portion of a year upon application and payment of the appropriate fee by the owner or operator. The license may be suspended for noncompliance with the director's regulations.

20.1-06-13. Property rights - Fish wild by nature.

Any person, firm, corporation, or limited liability company raising and owning any lawfully possessed fish, wild by nature, has the same property rights therein as enjoyed by owners of domestic fish. They are, however, subject to all rules adopted by the director regarding the introduction and release into the state of the fish, as provided in subsection 13 of section 20.1-02-05.

20.1-06-14. Live bait wholesalers and retailers - License.

The director shall adopt rules to control and supervise the operations of minnow or other live bait wholesalers and retailers. The director shall issue a license to each wholesaler when the wholesaler has complied with the director's rules and has paid the appropriate annual license fee. The director also shall issue a license to each retailer when the retailer has complied with the director's rules and has paid the appropriate license fee. A person may not take, possess, purchase, transport, or sell minnows or other live bait at wholesale or retail without first obtaining the appropriate license. The director may require each retailer or wholesaler to submit reports as the director may determine necessary. Licenses for wholesalers issued under this section authorize the following:

1. The annual resident license to sell minnows or other live bait at wholesale entitles the licensee to ten tags to mark bait-trapping equipment. A tag must be affixed to each trap used by the licensee. Upon request, the director shall issue additional tags to a licensee at a cost of five dollars per tag. A licensee may not import or export bait without first obtaining a permit from the director.
2. The annual class B nonresident license to sell minnows or other live bait at wholesale entitles a nonresident to import or export bait. A nonresident holding an annual class B nonresident license to sell minnows or other live bait at wholesale may not trap bait.
3. The annual class A nonresident license to sell minnows or other live bait at wholesale entitles the licensee to ten tags to mark bait-trapping equipment. A tag must be affixed to each trap used by the licensee. Upon request, the director shall issue additional tags to a licensee at a cost of five dollars per tag. The annual class A nonresident license to sell minnows or other live bait at wholesale entitles the licensee to trap in state waters with the permission of the director and permits the import and export of approved bait with the permission of the director. A nonresident may hold a class A license under this section if the nonresident's state of residence provides the same privilege for residents of North Dakota.

20.1-06-15. Fishways at dams.

Any person owning, erecting, managing, or controlling any dam or other obstruction across any river, creek, or stream within or forming the boundary of this state, at the director's direction, shall construct and keep in good repair, a durable and efficient fishway in the manner, shape, and size as the director may direct. Upon failure to construct or maintain the fishway, after giving the person ten days' notice, the director may construct or repair the fishway and recover the costs from the person owning, erecting, managing, or controlling the dam or obstruction. No person may construct any fishway without the approval of the director.

20.1-06-16. Turtles not to be taken without permit or contract from director.

No person may engage in the commercial taking, trapping, or hooking of turtles without obtaining a permit from the director, who may issue the permits at the director's discretion. The

director shall designate the form of the permits, the areas or waters in which the permits are valid, and any other restrictions.

The director shall have authority to contract with any person to remove turtles from any waters or areas of this state. Moneys derived from the sale of turtle permits or turtle removal contracts must be credited to the game and fish fund in the same manner as income from sale of fishing licenses.

20.1-06-17. Frogs - Season for taking - Rules.

No person may engage in the taking of frogs for sale for human consumption or scientific purposes without obtaining a frog license from the director. No person may buy, job, take on consignment, or ship frogs without obtaining the appropriate resident or nonresident commercial frog license. The director shall designate the form of the licenses, the areas in which the license is valid, and any other restrictions. The director shall issue rules relating to the manner of taking, shipping, buying, or selling and may require reports from each licensee at the time and containing information as deemed necessary. Except as provided in subsection 3 of section 20.1-03-04.1, it is unlawful to take frogs on private land without written permission of the owner or operator of the land.