

**North Dakota AIS Statutes**

**N.D. Cent. Code Tit. 20.1, Ch. 20.1-01 (General Provisions)**

**§ 20.1-01-02. Definitions**

In this title, unless the context otherwise requires:

1. “Afield” means being away from one's home or camp. The term does not include driving or being in actual physical control of a motor vehicle in violation of section 39-08-01 or equivalent ordinance.
2. “Any part thereof” or “the parts thereof” includes the hide, horns, or hoofs of any animal specified and the plumage, skin, and every other part of any bird specified.
3. “Aquatic nuisance species” means any nonindigenous, obligate aquatic species of plant or animal which is injurious to native and desirable aquatic species or which has a negative effect on aquatic habitats, environment, or the economy of the state.
4. “Associated equipment” means:
  - a. Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of such system, part, or component;
  - b. Any accessory or equipment for, or appurtenance to, a boat; and
  - c. Any marine safety article, accessory, or equipment intended for use by a person on board a boat; but
  - d. Excluding radio equipment.
5. “Big game” means deer, moose, elk, bighorn sheep, mountain goats, and antelope.
6. “Boat” means any vessel:
  - a. Manufactured or used primarily for noncommercial use;
  - b. Leased, rented, or chartered to another for the latter's noncommercial use; or
  - c. Engaged in the carrying of six or fewer passengers.
7. “Confiscate” or “confiscated” means to hold subject to the order of a court of competent jurisdiction.
8. “Consideration” means something of value given or done in exchange for something of value given or done by another.
9. “Crops” means any plant that has been harvested, collected, or stored as livestock feed, fodder, or fuel.
10. “Day leasing” means the practice of an outfitter entering a short-term lease agreement that is intended to and does last less than twenty-four hours.

11. “Department” means the game and fish department.
12. “Depredation” means damage to or destruction of private property.
13. “Deputy director” means the deputy director of the department.
14. “Director” means the director of the department.
15. “Disabled veteran” means a veteran who has a one hundred percent service-connected disability as determined by the department of veterans' affairs or has an extra-schedular rating to include individual unemployability that brings the veteran's total disability ratio to one hundred percent as determined by the department of veterans' affairs.

16. “Endangered species” means any species whose prospects of survival or recruitment within the state are in jeopardy due to any of the following factors:
  - a. The destruction, drastic modification, or severe curtailment of its habitat.
  - b. Its overutilization for scientific, commercial, or sporting purposes.
  - c. The effect on it of disease, pollution, or predation.
  - d. Other natural or manmade factors affecting its prospects of survival or recruitment within the state.
  - e. Any combination of the foregoing factors.

The term also includes any species classified as endangered pursuant to the Endangered Species Act of 1973, [Public Law 93-205](#).

17. “Established road or trail” means any public highway or road, improved or otherwise, dedicated for public ingress or egress, or any other road or trail normally used for travel but does not include temporary trails across cultivated land used for agricultural purposes.
18. “Fur-bearers” includes mink, muskrats, weasels, wolverines, otters, martens, fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats, lynx, mountain lions, black bears, and red or gray foxes.
19. “Game birds” includes all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, wild turkeys, mourning doves, and crows.
20. “Guide” means an individual who is employed by or contracts with a licensed outfitter to help the outfitter furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed.
21. “Gun dogs” includes any dog used to hunt protected wildlife.
22. “Harmful wild birds” includes blackbirds, magpies, English sparrows, and starlings.

23. “Harmless wild birds” includes all wild birds not defined herein as “harmful wild birds” or “game birds”.
24. “Hunt” or “hunting” means shooting, shooting at, pursuing, taking, attempting to take, or killing any game animals and game birds; searching for or attempting to locate or flush any game animals and game birds; luring, calling, or attempting to attract game animals and game birds; hiding for the purpose of taking or attempting to take game animals and game birds; and walking, crawling, or advancing toward wildlife while possessing implements or equipment useful in the taking of game animals or game birds. The term does not include possessing or using photographic equipment.
25. “Hunt through the internet” means to hunt wildlife in real time using internet services to remotely control actual firearms and to remotely discharge live ammunition allowing a person who is not physically present to take wildlife. The term includes using any remotely controlled device to hunt the animal such as a hand-held communication device, cellular telephone, or global-positioning device.
26. “Indian land” means land within the exterior boundaries of an Indian reservation held in trust by the federal government for the benefit of an Indian tribe or an Indian and land within the exterior boundaries of an Indian reservation owned in fee by an Indian tribe or an Indian.
27. “Introduce” means to place, release, or allow the escape of a non-native species into a free-living state.
28. “Manufacturer” means any person engaged in:
  - a. The manufacture, construction, or assembly of boats or associated equipment.
  - b. The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.
  - c. The importation into the state for sale of boats, associated equipment, or components thereof.
29. “Motorboat” means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion. The term does not include a vessel having a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.
30. “Motor-driven vehicle” means any land vehicle, with or without wheels, that is propelled by any motor.
31. “Native aquatic species” means an animal or plant species that is naturally present and reproducing within this state or which naturally expands from its historic range into this state.
32. “Non-native species” means a species that is not a native species.
33. “Operate” means to navigate or otherwise use a motorboat or a vessel.

34. “Outfitter” means a person that holds the person's business operation out to the public for hire or consideration; provides facilities or services for consideration; maintains, leases, or otherwise provides compensation for the use of land and which receives compensation from a third party for use of that land; or otherwise uses equipment or accommodations for consideration for the conduct of outdoor recreational activities, including hunting animals or birds and fishing on lakes, reservoirs, rivers, and streams. An outfitter may act as a guide. The term does not include a person holding title or an equitable interest in business operations if the purpose of the business operation is to provide food or lodging to the general public, chamber of commerce activities, travel agencies, or others that offer free information to attract outdoor and recreational use of their communities.
35. “Owner” means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.
36. “Passenger” means every person carried on board a vessel other than:
  - a. The owner or the owner's representative.
  - b. The operator.
  - c. Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.
  - d. Any guest on board a vessel which is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for that person's carriage.
37. “Person” includes every partnership, association, corporation, and limited liability company. No violation of this title may be excused because it was done as the agent or employee of another, nor because it was committed by or through an agent or employee of the person charged.
38. “Personal watercraft” means a motorboat that is powered by an inboard motor powering a water jet pump or by an inboard or outboard marine engine and which is designed to be operated by a person sitting, standing, or kneeling on the craft, rather than in a conventional manner of sitting or standing inside a motorboat.
39. “Possession” means control, actual possession, and constructive possession of the article or thing specified.
40. “Private fish hatchery” means a body of water, whether natural or artificial, and any other facilities used, maintained, or operated by any private person, firm, corporation, or limited liability company for the propagation and production of fish for sale or planting in other waters. Except in the case of trout, walleye, northern pike, and crappie, which may be raised in a private fish hatchery without the director's approval, the director may, by rule, regulate the species of fish which may be raised in a private fish hatchery. No waters stocked by any state or federal governmental agency may be considered a private fish hatchery.

41. “Public waters” means waters to which the general public has a right to access.
42. “Resident” means any person who has actually lived within this state or maintained that person's residence therein for at least six months immediately preceding the date that residence is to be determined. A person's residence is the place where the person remains when not called elsewhere for special or temporary purposes. A resident can only have one residence and a residence cannot be lost until another is gained. A residence or home is a permanent building or part of a building and may include a house, condominium, apartment, room in a house, or mobile home. A rental property, vacant lot, or house, cabin, or premises used primarily for business or recreational pursuits may not be considered a residence. A “nonresident” is any person who has not actually lived within this state or maintained that person's residence within this state for at least six months immediately preceding the date that residence is to be determined.
43. “Resident species” means any species nearly all of whose individuals in this state are located within this state for at least three-fourths of annual cycle of the species.
44. “Retrieve” means to have taken possession and made ready for transportation.
45. “Sell” and “sale” means any sale or offer to sell, or possession with intent to sell, use, or dispose of, the article or thing specified, contrary to law.
46. “Shooting preserve” or “preserve” means any privately owned or leased acreage [hectarage] on which hatchery-raised game birds are released to be hunted for a fee over an extended season.
47. “Sinkbox” or “sunken device” means a raft or any type of low floating device having a depression that affords a hunter a means of concealing that person below the surface of the water.
48. “Slow or no wake speed” means the slowest possible speed necessary to maintain steerage.
49. “Small game” includes all game birds and tree squirrels.
50. “Species” includes any subspecies of wildlife and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature.
51. “Threatened species” means any species which is likely to become an endangered species within the foreseeable future and includes any species classified as threatened pursuant to the Endangered Species Act of 1973, Public Law 93-205.
52. “Transport” means to cause or attempt to cause a species to be carried or moved into or within the state and includes accepting or receiving the species for transportation or shipment. The term does not include the unintentional transport of a species while on a

specific water of the state or to a connected water of the state where the species being transported is already present.

53. “Undocumented vessel” means a vessel which does not have a valid marine document as a vessel of the United States.
54. “Vessel” means any watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.
55. “Waterfowl” includes all varieties of geese, brant, swans, ducks, rails, and coots.
56. “Waters” when not qualified means waters not open to the general public.
57. “Waters of the state” means all waters of this state, including boundary waters. This title extends to and is in force and effect over, upon, and in all such waters.
58. “Wildlife” means any member of the animal kingdom including any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals as defined by section 36-01-00.1 or birds or animals held in private ownership.

#### **§ 20.1-02-16.7. Aquatic nuisance species program fund**

There is created in the state treasury a special fund known as the aquatic nuisance species program fund. The fund consists of transfers and deposits made in accordance with section 20.1-02-16.1 and section 20.1-13-02.1.

#### **N.D. Cent. Code Tit. 20.1, Ch. 20.1-03 (Licenses and Permits)**

#### **§ 20.1-03-12. Schedule of fees for licenses and permits**

The fees collected under this section for licenses and permits must be deposited with the state treasurer and credited to the game and fish fund, except aquatic nuisance species fees must be deposited with the state treasurer and credited to the aquatic nuisance species program fund. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative. The various license and permit fees are as follows:

*\*\*\* Non-ANS provisions omitted \*\*\**

55. For each motorboat licensed in this state, an aquatic nuisance species fee of fifteen dollars valid concurrent with motorboat licensure.
56. For each motorboat operated on waters of this state and not licensed in this state, an aquatic nuisance species fee of fifteen dollars for the calendar year in which it is paid.

**§ 20.1-03-12.3. Fishing, combination, and waterfowl license surcharge**

The director shall establish a surcharge of two dollars on each resident fishing license and combination license except for the resident sixty-five years of age or older license, permanently or totally disabled license, or a disabled veteran license as defined in subsection 6 of section 20.1-03-12. The director also shall establish a surcharge of three dollars on each nonresident fishing license and each nonresident waterfowl hunting license issued under section 20.1-03-12. The collected surcharge fees must be deposited with the state treasurer and credited to the aquatic nuisance species program fund.

**N.D. Cent. Code Tit. 20.1, Ch. 20.1-13 (Boating Regulation)**

**§ 20.1-13-02.1. Operation of motorboat without payment of aquatic nuisance species fee prohibited--Penalty**

1. For each motorboat operated on waters of this state, an aquatic nuisance species fee must be paid.
  - a. For each motorboat licensed in this state, the fee is due at the time of motorboat licensure.
  - b. For each motorboat operated on waters of this state and exempt from licensure in this state, the owner shall pay the fee and, after payment of the fee, must be issued an aquatic nuisance species sticker from the department. The sticker must be attached to the motorboat in a manner prescribed by the department so the sticker is clearly visible.
2. Fees collected under this section must be deposited with the state treasurer and credited to the aquatic nuisance species program fund.
3. A person that violates this section is guilty of a class 2 noncriminal offense.

**N.D. Cent. Code Tit. 20.1, Ch. 20.1-17 (Aquatic Nuisance Species)**

**§ 20.1-17-01. Prevention and control of aquatic nuisance species**

The director, to prevent and control aquatic nuisance species, shall:

1. Prepare a statewide management plan for aquatic nuisance species to be approved by the governor.
2. Organize an aquatic nuisance species committee, as provided for in the statewide management plan, composed of the director or the director's designee; representatives of the agriculture commissioner, state water commission, parks and recreation department, state department of environmental quality, and tourism division; up to five private entities or

individuals; and a representative of tribal entities. The director or the director's designee is the chairman of the aquatic nuisance species committee.

3. Develop and adopt the state's list of aquatic nuisance species after consulting with the aquatic nuisance species committee. The list must be updated annually.
4. Provide for a permitting system to import listed aquatic nuisance species into or move those species within the state.
5. Develop rules to prevent the movement of aquatic nuisance species into or within the state. In addition to requirements under chapter 28-32, the department shall conduct a cost-benefit analysis for any rule proposed for adoption under this chapter.
6. Conduct aquatic nuisance species education and prevention efforts.
7. Provide for the partnership of the federal government, state agencies, and private or public organizations to fund aquatic nuisance species prevention efforts.

**§ 20.1-17-02. Compensation and expenses of appointive members of the aquatic nuisance committee**

Each appointive member of the committee is entitled to receive sixty-two dollars and fifty cents compensation per day and to reimbursement for expenses in the amounts provided in sections 44-08-04 and 54-06-09 while attending meetings of the committee or, at the discretion of the member, may receive either per diem compensation or expenses in those amounts while otherwise engaged in official business of the department, including time of travel between home and the place at which the member performs such duties.

**§ 20.1-17-03. Management plan**

The statewide management plan must address:

1. Coordinated detection efforts and prevention of illegal introductions;
2. Coordinated dissemination of information concerning aquatic nuisance species among resource management agencies and organizations and impacted entities;
3. A coordinated education and awareness campaign;
4. Coordinated control of selected invasive species of aquatic plants and wild animals on lands and public waters;
5. A reasonable and workable inspection requirement for watercraft and equipment working on waters of the state, including those participating in organized events on the waters of the state;

6. Closure of points of access to infested waters, if the director determines closure is necessary;
7. Maintenance of public access to infested waters which are reasonably free of aquatic nuisance species; and
8. Notice to travelers of the penalties for violation of laws relating to aquatic nuisance species.

**§ 20.1-17-04. Inspection of watercraft**

The director shall train and authorize personnel to inspect watercraft and associated equipment, including weed harvesters, for aquatic nuisance species before the watercraft and equipment enter or leave waters of the state during the open water season.

**§ 20.1-17-05. Infested waters--Restricted activities**

The director shall designate a water of the state as an infested water if the director determines that the water contains a population of an aquatic nuisance species that may spread to other waters if use of the water and related activities is not regulated to prevent this spread. In determining which waters are infested with a nuisance species, the director shall consider:

1. The extent of a species distribution within the state;
2. The likely means of spread for a species; and
3. Whether rules specific to infested waters containing a specific species will effectively reduce that species' spread.

**§ 20.1-17-06. Prohibited activities**

A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited aquatic nuisance species except:

1. Under a permit issued by the director;
2. When being transported to the department, or another destination as the director may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;
3. When being transported for disposal as part of a harvest or control activity under a permit issued by the director or when being transported as specified by the director;
4. When the specimen has been lawfully acquired dead and, in the case of plant species, all seeds are removed or are otherwise secured in a sealed container;

5. When being removed from watercraft or equipment, or caught while angling, and immediately returned to the water from which it came; or

6. As the director otherwise may prescribe by rule.

**§ 20.1-17-07. Standard**

The director may issue a permit under this chapter only if the director determines that the permitted activity does not pose an unreasonable risk of harm to natural resources or their use in the state. The director may deny, issue with conditions, modify, or revoke a permit issued under this chapter as necessary to ensure that the proposed activity will not pose an unreasonable risk of harm to natural resources or their use in the state.

**§ 20.1-17-08. Seizure**

The director may seize or dispose of any specimens of prohibited aquatic nuisance species unlawfully possessed, imported, purchased, sold, propagated, transported, or introduced in this state.

**§ 20.1-17-09. Penalty**

A person who violates this chapter is guilty of a class B misdemeanor.