

LEGISLATIVE BILL 72

Approved by the Governor April 9, 1981

Introduced by Constitutional Revision and Recreation Committee, Labedz, 5, Chpn.; Carsten, 2; Higgins, 9; Vickers, 38

AN ACT to amend sections 37-101, 37-201, 37-204.01, 37-208, 37-211, 37-212, 37-214.01, 37-216.01, 37-301, 37-304, 37-304.02, 37-308, 37-505, 37-508, 37-510, 37-714, 37-715, and 81-805, Reissue Revised Statutes of Nebraska, 1943, and sections 37-202, 37-204, 37-213, and 37-215, Revised Statutes Supplement, 1980, relating to game; to eliminate trapping permits; to provide for fur harvesting permits; to define and redefine terms; to establish fees; to provide for extension of certain permits; to change certain fees; to change prohibited practices; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 37-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-101. As used in Chapter 37 and this act, unless the context otherwise requires:

(1) Game shall mean all game fish, bullfrogs, snapping turtles, tiger salamanders, mussels, crows, game animals, fur-bearing animals, game birds, and all other birds and other creatures protected by Chapter 37 and this act;

(2) Game fish shall mean all fish except buffalo, carp, gar, quillback, sucker, and gizzard shad;

(3) Game animals shall mean all antelope, cottontail rabbits, deer, elk, raccoon, ~~opossum~~, and squirrels;

(4) Fur-bearing animals shall mean all beaver, martens, minks, except mutation minks, muskrats, raccoon, opossum, and otters;

(5) Game birds shall mean coots, cranes, curlew, doves, ducks, geese, grouse, partridges, pheasants, plovers, prairie chickens, quail, rails, snipes, swans, woodcock, wild turkey, and all migratory waterfowl;

(6) Upland game birds shall mean all species and subspecies of quail, partridges, pheasants, wild turkeys, and grouse including prairie chickens, on which an open season is in effect;

(7) Raptor shall mean any bird of the Falconiformes or Strigiformes, except the golden and bald eagles;

(8) Person, owner, proprietor, grantee, lessee, and licensee shall mean and include individuals, partnerships, associations, corporations, and municipalities;

(9) Board and commission shall each mean the Game and Parks Commission;

(10) Officer shall mean every person authorized to enforce Chapter 37 and this act;

(11) Hunt shall mean take, pursue, shoot, kill, capture, collect, trap, or attempt to take, pursue, shoot, capture, collect, or kill; ~~or trap; and~~

(12) Raw fur shall mean the green pelts of any game animal or fur-bearing animal except commercially reared mutations; -

(13) Trapping shall mean to take or attempt to take any fur-bearing animal by any snare, steel-jawed spring trap, or box trap; and

(14) Fur harvesting shall mean taking or attempting to take any fur-bearing animal by any means as prescribed by rules and regulations of the Game and Parks Commission.

Sec. 2. That section 37-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-201. For the purpose of supplying revenue for the propagation, importation, distribution, protection, and conservation of the wildlife of this state, including all wild animals, birds, fish, and all things pertaining thereto, every person sixteen years of age or older who hunts for game animals or game birds or takes bullfrogs, or any other species as defined as game in section 37-101, or angles for fish, and every person sixteen years of age or older who traps for--fur-bearing--animals engages in fur harvesting, shall first pay a fee as herein required and obtain a permit, except the owner or his or her invitee who angles for fish in any body of

water (1) which is entirely upon privately-owned land, (2) which is entirely privately stocked, (3) which does not connect by inflow or outflow with other water outside said land, and (4) when such owner does not operate such body of water on a commercial basis for profit; Provided, that any bona fide farmer or rancher who owns or leases farm or ranch land, and who actually resides on such land, together with members of his or her immediate family also residing on such land, may hunt, take, and possess, within duly established season bag and possession limits, upland game, and all game except migratory water fowl, shore birds, deer, antelope, and wild turkey without the necessity of paying a fee and obtaining a hunting permit, as required in section 37-201 and section 37-213, or a habitat stamp as required in sections 37-216.01 to 37-216.09, and for the purpose of this exemption, the term immediate family shall mean and be limited to husband and wife and their children, and the term upland game shall mean and be limited to cottontail rabbits, squirrels, grouse, partridges, pheasants, prairie chickens, and quail. Such exemption shall only apply to hunting done on the home farm or ranch, and shall not apply when hunting on the lands of other persons or on land owned by the exempted farmer or rancher and not directly connected and contiguous with the land upon which the farmer or rancher actually resides; Provided, that any farmer or rancher owning or operating a farm or ranch may destroy or have destroyed any predator, including raccoon and opossum, preying on livestock or poultry or causing other agricultural depredation on lands owned or controlled by him without a permit issued by the Game and Parks Commission.

Sec. 3. That section 37-202, Revised Statutes Supplement, 1980, be amended to read as follows:

37-202. Permits to hunt, fish, or trap harvest fur shall be issued on a form prepared and supplied by the Game and Parks Commission. Such permit shall bear a description of the person to whom issued, setting forth occupation, age, color of eyes and hair, height and weight, and the date of its issuance. All permits shall bear the signature of the secretary of the commission or a facsimile of such signature. All legally issued permits shall authorize the person named therein to hunt for, kill or take game and fish or to harvest fur-bearers, in lawful season and manner, during the period for which the permit is issued. All of said permits, except for those permits for veterans provided by section 37-214.03 and for persons at least seventy years old provided by section 37-214.04 which shall be permanent permits, shall expire at midnight on December 31 of the year in which issued. ~~;~~ ~~Provided;~~ ~~that~~

trapping Trapping and fur buyer permits shall which were purchased prior to January 1, 1982, and expire on June 30, 1982, after the issuance thereof are hereby made valid through June 30, 1982, at no additional fee. Said permits to To be valid a permit must be countersigned by the holder. The permit shall be on the person of the holder, at all times while he or she is hunting, trapping fur harvesting, or fishing, and shall be shown immediately upon demand to any officer or person whose duty it is to enforce the provisions of this act. Any person hunting, fishing, or trapping fur harvesting in this state without such permit actually on or about his or her person, as above required, shall be deemed to be without such permit.

Sec. 4. That section 37-204, Revised Statutes Supplement, 1980, be amended to read as follows:

37-204. There shall be paid to the state, for permits issued under the provisions of this act, the following fees:

(1) Resident fees shall be six eight dollars and fifty cents for hunting, seven nine dollars and fifty cents for fishing, thirteen seventeen dollars and fifty cents for both fishing and hunting, and seven fifteen dollars for trapping fur harvesting; or otherwise--taking fur-bearing-animals-pursuant-to-the-regulations--of--the Game-and-Parks-Commission;

(2) By nonresidents, for trapping fur harvesting or otherwise-taking one thousand or less fur-bearing animals, two hundred dollars for a period of time specified by the commission and ten dollars additional for each one hundred or part of one hundred fur-bearing animals taken-or-trapped harvested; the commission may limit the number of days for which such a permit is issued and the number of fish or game birds taken on one permit, and is authorized to issue coupons attached to nonresident permits for the purpose of tagging and identification. Nonresident permits for trapping fur harvesting or otherwise-taking-fur-bearing-animals may be issued only to residents of states which sell similar permits to residents of Nebraska. No hunting or fur harvesting permit shall be required of any nonresident entering this state solely to participate in scheduled dog trials for which an entry fee is charged. For purposes of this subdivision, scheduled dog trials shall mean events wherein hunting dogs and their owners or handlers compete and are judged under controlled conditions in various feats of skill and performance in the hunting or retrieving of birds and animals when such events are conducted under the written authorization of

the Game and Parks Commission. The fee for a nonresident hunting permit shall be thirty forty dollars, the fee for a three-day nonresident fishing permit shall be six dollars, and the fee for a nonresident annual fishing permit shall be twenty dollars per year; and

(3) No person, except a resident of the United States who has resided in this state continuously for a period of ninety days before making an application for a permit under this act and who has a bona fide intention of becoming a legal resident of this state, supported by documentary proof, shall be deemed to be a resident or be issued a permit as such under this act. The issuance of a hunter's permit to anyone known to be physically or mentally unfit to carry or use firearms is hereby prohibited. All nonresident hunters and fur harvesters regardless of age shall be required to obtain a permit, and all nonresident anglers under sixteen years of age must be accompanied by a person possessing a valid fishing permit.

Sec. 5. That section 37-204.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-204.01. The Game and Parks Commission may issue a duplicate permit for hunting, fishing, or both hunting and fishing, or-trapping fur harvesting, or such other permits as may be issued by the commission to any person who shall have lost his or her original permit upon receipt from such person of satisfactory proof of purchase and an affidavit of loss of such original permit. Application for such duplicate permit shall be made in such form as the commission may prescribe. A fee of one dollar and fifty cents shall be charged for the issuance of such duplicate permit.

Sec. 6. That section 37-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-208. It shall be unlawful (1) for any person holding a permit under this act to lend or transfer his or her certificate to another or for any person to borrow or use the permit of another, (2) for any person to procure a permit under an assumed name, to falsely state the place of his or her legal residence or make any other false statement in securing a permit, (3) for any person to knowingly issue or aid in securing a permit, under the provisions of this act, for any person not legally entitled thereto, (4) for any person disqualified for a permit to hunt, fish, or trap harvest fur with or without a permit during any period when such right has been

forfeited or for which his or her permit has been revoked by the commission, or (5) for anyone any nonresident under the age of sixteen years to receive a permit to trap harvest fur from or otherwise--take--or--attempt--to take any fur-bearing animal under this act without presenting a written request therefor signed by his or her father, mother, or guardian. All children who are residents of the State of Nebraska and are under sixteen years of age shall not be required to have a permit to hunt, harvest fur, or fish. Any violation of this section shall constitute a Class V misdemeanor, and any permits purchased or used in violation of this section shall be confiscated by the court.

Sec. 7. That section 37-212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-212. The fund derived from the sale of permits, as provided in this act, any unexpended balance now on hand from the sale of hunting, trapping fur harvesting, and fishing permits, and all money required by this act to be paid into the State Game Fund are hereby appropriated to the use of the Game and Parks Commission for the propagation, importation, protection, preservation, and distribution of game and fish and necessary equipment therefor, and all things pertaining thereto, for the creation of cash funds under section 81-814.01, and for the administration and enforcement of the provisions of sections 37-1201 to 37-1274, and for the construction and maintenance of boating and docking facilities, navigation aids and access to boating areas, and such other uses which will promote the safety and convenience of the boating public in Nebraska.

Sec. 8. That section 37-211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-211. (1) It shall be unlawful for any person, firm, or corporation dealing in raw furs to conduct such business without first obtaining from the Game and Parks Commission a fur buyers permit. The fee of this permit shall be fifty one hundred dollars per annum for residents. No person, except a resident who has resided in this state continuously for a period of six months before making an application for a permit under this section, shall be deemed to be a resident or be issued a permit as such under this section. The fees for nonresidents of this state shall be equal to the fees charged for similar permits by the states of their respective residences but not less than three five hundred dollars per annum for such nonresidents. Before

any such permit shall be issued to a nonresident of this state, the applicant therefor shall execute and deliver to the secretary of the commission a corporate surety bond, running to the State of Nebraska, in the penal sum of one thousand dollars to be approved by the commission, conditioned that the permittee shall faithfully comply with all the laws of this state. Dealers sending buyers into the field, away from their place of business, will provide each such buyer with a separate permit. Every nonresident buyer entering the state or who has buyers in this state shall carry a nonresident permit.

(2) Every buyer, both resident and nonresident, shall keep complete records of all furs bought or sold in a record book to be provided by the Game and Parks Commission. Such record shall include the number and kind of furs bought or sold, the name and address of the seller or buyer, the date and place of purchase or sale, and the permit number of the seller or buyer.

(3) It shall be unlawful for any buyer to have raw furs in his, her, or its possession, unless the record, referred to in subsection (2) of this section, gives positive evidence of the origin of such furs, and unless such record of raw furs bought and sold balances at all times. Such record books shall be open to inspection by conservation officers at any and all times and shall be made available to such officers upon demand.

(4) Any violation of any of the provisions of subsection (1), (2), or (3) of this section shall constitute a Class V misdemeanor, and as a part of the penalty the court shall require the offender to purchase the required permit.

Sec. 9. That section 37-213, Revised Statutes Supplement, 1980, be amended to read as follows:

37-213. Unless holding a permit as in this act required, it shall be unlawful (1) for any person who is a resident of the State of Nebraska and is sixteen years of age or older or who is a nonresident of this state to trap or otherwise take or attempt to take, engage in fur harvesting or have in possession any fur-bearing animal or raw fur, except that a person may possess a fur-bearing animal or raw fur for up to ten days after expiration of a valid permit, (2) for any person who is a resident of the State of Nebraska and is sixteen years old or older or who is a nonresident of this state to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds, game animals, or crows, (3) for any person of the age of sixteen years or older to hunt or take or attempt to hunt or take any migratory waterfowl

without first obtaining and affixing to his or her hunting permit a federal migratory bird hunting stamp. All such stamps affixed to hunting permits must be signed by the holder of the hunting permit. The term migratory waterfowl shall mean any ducks, geese, coots, or brant upon which an open season has been established by the Game and Parks Commission, or (4) for any person who is sixteen years of age or older to take, angle for, or attempt to take any kind of fish, bullfrog, snapping turtle, tiger salamander, mussel, or minnow from the waters of this state or possess the same except that the owner or invitee of the owner of any body of water (a) located entirely upon privately-owned land, (b) which is entirely privately stocked, (c) which does not connect by inflow or outflow with other water outside said land, and (d) when such owner does not operate such body of water on a commercial basis for profit shall not be required to hold a permit before fishing from or possessing fish or minnows taken from such waters; Provided, that no fishing permit shall be required for fishing in any duly licensed commercial put and take fishery operating under rules and regulations prescribed by the Game and Parks Commission. The fee for licensing such put and take commercial fishery shall be fifty dollars per year, payable in advance, and no person shall operate such an establishment without first obtaining such permit from the commission. Before issuing such permit the commission shall investigate each such establishment annually and be satisfied that the same is a bona fide commercial put and take fishery operating within all applicable state and federal laws. It shall be unlawful for a nonresident to hunt for, kill, shoot at, pursue, take, or possess any kind of game birds or game animals, mussel, turtle, or amphibian, or to angle for or take or attempt to angle for or take any kind of fish, or to harvest fur or attempt to harvest fur while in the possession of a resident permit illegally obtained. It shall also be unlawful for anyone to do or attempt to do any other thing for which a permit is herein provided without first obtaining such permit and paying the fee required. During the firearms deer season, wild animals other than deer may be hunted only with a shotgun or .22 rimfire rifle or handgun, except that this provision shall not apply to a bona fide farmer or rancher who owns, leases, or resides upon farm or ranch land, or a member of the immediate family of such farmer or rancher, while hunting on such farm or ranch land. Except as provided in sections 37-204 and 37-209, it shall be unlawful for any nonresident to trap or attempt to trap or to harvest fur or attempt to harvest fur from any wild mammal. Any violation of the provisions of this section shall constitute a Class II misdemeanor and the offender shall be fined at least forty dollars.

If the offense shall be failure to hold a hunting, fishing, fur harvesting, deer, turkey, or antelope permit as required, unless issuance of the required permit is restricted so that permits are not available, the court shall require the offender to purchase the required permit and exhibit the same to the court.

Sec. 10. That section 37-214.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-214.01. (1) Any person in the military service of the United States, regardless of residence, who has been ordered to active duty at any facility of the Department of Defense or its component services located in the State of Nebraska, may hunt, fish, or trap harvest fur on the appropriate resident permit upon satisfactory proof that such person has been actually present for duty at such facility for a period of thirty days or more.

(2) Any person enrolled and in actual attendance as a full-time student in any university, college, junior college, or vocational technical college in this state, regardless of residence, may hunt or fish on the appropriate resident permit upon satisfactory proof that such person has been actually in attendance at any such institution for a period of thirty days or more.

(3) Any person duly enrolled in the Civilian Conservation Centers or any similar governmental work or training facility in this state may hunt or fish on the appropriate resident permit upon proof that such person has been in attendance at such facility thirty days or more.

Sec. 11. That section 37-215, Revised Statutes Supplement, 1980, be amended to read as follows:

37-215. (1) The Game and Parks Commission is authorized to issue permits for the killing of deer and to prescribe and establish regulations and limitations for the hunting, killing, transportation, and possession of deer. The commission may specify by regulation the information to be required on applications for such permits. Regulations and limitations for the hunting, killing, transportation, and possession of deer may include, but not be limited to, regulations and limitations as to the type and caliber and other specifications of firearms and ammunition used, and specifications for bows and arrows used. Such regulations and limitations may further specify and limit

the method of hunting deer, and may provide for dividing the state into management units or areas and the commission may enact different deer harvest regulations for the different management units as pertains to sex, species, and age of the deer harvested. The number of such permits may be limited, as provided by the regulations of the commission, but the permits shall be disposed of in an impartial manner. Whenever the commission shall deem it advisable to limit the number of permits issued for any or all management units, the commission shall, by rules and regulations, determine who shall be eligible to apply for such permits. In establishing eligibility, the commission shall give preference to persons who did not receive a permit during the previous year or years. Such permits may be issued to allow killing of deer in the Nebraska National Forest and other game reserves and such other areas in the State of Nebraska as the commission may designate whenever the commission shall deem that permitting such killing will not be detrimental to the proper preservation of wildlife in Nebraska in such forest, reserves, or areas. The commission shall charge a fee for each permit so issued in the sum of fifteen twenty dollars for residents and fifty one hundred dollars for nonresidents; Provided, that the commission may issue nonresident permits only after a reasonable period has first been provided solely for issuance of resident permits; and provided further, that should the commission issue nonresident permits the issuance of resident permits shall continue until permit quotas have been filled or a reasonable cutoff date reached. No permit shall be issued until after a reasonable period for making application, as established by the commission, has expired. When more valid applications are received for any management unit than there are permits available, such permits shall be allocated on the basis of a public drawing. All valid applications received during the predetermined application period shall be considered equally in any such public drawing without regard to time of receipt of such applications by the Game and Parks Commission. No person shall be issued a permit to kill deer or antelope unless such person is at least fourteen years of age; Provided, that any person aged fourteen or fifteen shall only hunt deer or antelope when accompanied by a person aged twenty-one years or over.

(2) The Game and Parks Commission may also issue permits for the killing of antelope and may establish separate and, when necessary different, regulations therefor within the limitations prescribed in subsection (1) of this section for the taking of deer. The commission shall charge a fee for each antelope permit so issued in the sum of fifteen twenty dollars for residents

and fifty one hundred dollars for nonresidents. The provisions for the distribution of deer permits and the authority of the commission to determine eligibility of applicants for permits as described in subsection (1) of this section shall also apply to the distribution of antelope permits.

Sec. 12. That section 37-216.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-216.01. No person sixteen years of age or older shall take, hunt, kill, harvest, or possess any game birds, upland game bird, game animal, or fur-bearing animal unless, at the time of such taking, hunting, killing, harvesting, or possessing, such person carries on his or her person an unexpired habitat stamp validated, by his or her signature in ink across the face of the stamp, prior to the time of taking, hunting, killing, harvesting, or possessing such birds or animals; Provided, that all nonresidents, regardless of age, who shall take, hunt, kill, harvest, or possess any game bird, upland game bird, game animal, or fur-bearing animal shall carry on his or her person the required habitat stamp so validated. Any person to whom a stamp has been issued shall, immediately upon request, exhibit the stamp to any officer or person whose duty it is to enforce the provisions of sections 37-216.01 to 37-216.09. Any person taking, hunting, killing, harvesting, or possessing game birds, upland game birds, game animals, or fur-bearing animals in this state without such a stamp attached to a valid hunting or trapping fur harvesting permit and not actually on or about his or her person shall be deemed to be without such stamp. Such stamp shall be issued upon the payment of seven dollars and fifty cents as provided by rules and regulations of the Game and Parks Commission.

Sec. 13. That section 37-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-301. (1) The Game and Parks Commission is hereby authorized and empowered, in accordance with the provisions of this act, other provisions of law, and lawful regulations, to fix, prescribe, and publish regulations as to open seasons and closed seasons, either permanent or temporary, and as to bag limits or the methods, or type, kind, and specifications of hunting, fur harvesting, or fishing gear used in the taking, killing, hunting, harvesting, or pursuing of any game, game fish, nongame fish, game animals, fur-bearing animals, or game birds or as to the age, sex, species, or

area of the state in which any game, game fish, nongame fish, game animals, fur-bearing animals, or game bird may be taken, hunted, killed, harvested, or pursued, or as to the taking, killing, hunting, harvesting, or pursuing of any particular kinds, species, or sizes of game, game fish, nongame fish, game animals, fur-bearing animals, and game birds defined in this act, in any designated waters or areas of this state, after due investigation and having due regard to the distribution, abundance, economic value, breeding habits, migratory habits, and causes of depletion or extermination of the same in such designated waters or areas, and having due regard to the volume of the hunting, trapping fur harvesting, and fishing practiced therein and the climatic, seasonal, and other conditions affecting the protection, preservation, and propagation of the same in such waters or areas. Such regulations may be amended, modified, or repealed from time to time, subject to the above limitations and standards, and such regulations and all amendments, modifications, and repeals thereof shall be based upon investigation and available but reliable data relative to the above limitations and standards. ~~Each regulation and each amendment, modification, or repeal thereof, when made and issued, shall be placed on file in the office of the commission, a certified copy thereof shall be sent by either registered or certified mail to the clerk and sheriff of each county, the whole or any part of which is affected thereby, not less than fifteen days before the taking effect of such order, and eight copies shall be filed with the Nebraska Publications Clearinghouse. These officers shall immediately post such copy so received in a conspicuous place in his or her office.~~

(2) A copy of each such regulation, amendment, modification, and repeal may be published by the commission in a legal newspaper or newspapers of general circulation in the area affected thereby and shall also be included and printed in each official compilation of the Nebraska game and fish laws.

(3) Each such regulation, amendment, modification, and repeal shall specify the date when it shall become effective and while it remains in effect, shall have the force and effect of law.

(4) Regardless of the provisions of this section, or of other sections of this chapter which empower the commission to set seasons on game birds or animals or provide the means and method by which such seasons are set or promulgated and regardless of the provisions of sections 84-901 to 84-916, the commission may close or reopen any open season previously set on game birds or animals in all or any specific portion of the state. The

commission shall only close or reopen such seasons by majority vote at a valid special meeting called under the provisions of section 81-803 and other provisions of statutes regarding the holding of public meetings. Any closing or reopening of an open season previously set by the commission shall not be effective for at least twenty-four hours after such action by the commission. The commission shall make every effort to make available to all forms of the news media the information on any opening or closing of any open season on game birds or animals previously set. The commission may only use this special provision allowing the commission to open or close game bird or animal seasons previously set in emergency situations in which the continuation of the open season would result in grave danger to human life or property.

Sec. 14. That section 37-304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-304. It shall be unlawful, except as otherwise provided by this act, to shoot, ~~trap~~ harvest, hunt, take or pursue any species of game birds, game animals, or fur-bearing animals or to angle for or catch any game fish protected by this act except during the open seasons, if any, that may be authorized by the Game and Parks Commission in accordance with this act.

Sec. 15. That section 37-304.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-304.02. (1) It shall be lawful for any officer or employee of any public power, irrigation, or drainage district, organized under the laws of this state, to kill or destroy, or to have trapped by a trapper or trappers, any beaver or muskrat which may be found to be destroying or damaging any dams, ditches, or other works needed and useful in the operation of such public power, irrigation, or drainage district whenever, after notice in writing that such destruction or damage is being done by such beaver or muskrat and the location thereof has been given to the secretary of the Game and Parks Commission, the commission shall fail, neglect, or refuse, within thirty days after the receipt of such notice, to cause the beaver or muskrat doing such destruction or damage to be removed from the place where such destruction or damage is occurring or to take such other steps as may be effective to prevent further damage to the works of such public power, irrigation, or drainage district: Provided, that before any public power, irrigation, or drainage district shall have such

beaver or muskrat trapped, it shall submit to the secretary of the Game and Parks Commission the names and addresses of the trapper or trappers to do the trapping, and if no written objections are received, stating the reasons for such objection, from the secretary of the Game and Parks Commission within five days from the receipt of the name or names of such trapper or trappers, they shall be deemed to be approved. No trapper shall be used to trap any beaver or muskrat by such public power, irrigation, or drainage district who has been objected to in writing by the Game and Parks Commission; and provided further, that the public power, irrigation, or drainage district shall report to the Game and Parks Commission every thirty days the number of beaver or muskrat killed or destroyed and shall forward with such report a fee in the sum of two dollars for each beaver so killed or destroyed. Under such circumstances, no permit shall be required to so kill or destroy such beaver or muskrat, but fees shall be paid for beaver killed, as hereinafter provided.

(2) Whenever beaver are destroying trees or otherwise damaging property, except as is provided in subsection (1) of this section, the person whose trees or property is being damaged by beaver may notify the commission by registered or certified mail of such damage. If the commission does not elect to remove the beaver within thirty days thereafter, it shall immediately issue a permit valid for ninety days authorizing the person whose trees or property is being damaged to destroy the beaver or their dens on said property in any manner he or she shall elect.

(3) All pelts of beaver held in the possession of any person which were taken from a public power, irrigation, or drainage district, as provided in subsection (1) of this section, shall be stamped by the commission with a stamp containing the words killed by permission of the Game and Parks Commission, before the same are sold, shipped, or otherwise transported outside of the State of Nebraska. Beaver pelts taken under the authority of a permit issued under provisions of subsection (2) of this section shall not be sold or used unless the permittee also possesses a current and valid trapping fur harvesting permit.

Sec. 16. That section 37-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-308. (1) Any person who shall, at any time except during an open season ordered by the commission as herein authorized, unlawfully take, kill, trap, destroy,

attempt to take, kill, trap, destroy, or have in his or her possession any buffalo, elk, deer, antelope, swan, whooping crane, or wild turkey shall be guilty of a Class III misdemeanor. Any person who shall at any time, except during an open season ordered by the commission as herein authorized, unlawfully take, trap, kill, destroy, attempt to take, kill, trap, or destroy, or have in his or her possession any quail, pheasant, partridge, Hungarian partridge, wood duck, eider duck, curlew, grouse, mourning dove, or sandhill crane shall be guilty of a Class III misdemeanor. Any person who shall unlawfully take, catch, trap, kill, harvest, destroy, or attempt to take, catch, trap, kill, harvest, or destroy any other game bird, game or fur-bearing animal, or game fish, or unlawfully have in his or her possession any such game, fish, or raw fur, except as specified and permitted by order of the commission, shall be guilty of a Class V misdemeanor. Any person who shall, in violation of this act, kill, take, trap, destroy, attempt to take, kill, trap, or destroy, or shoot at any mourning dove that is not flying, or have in his or her possession any nongame, song, or insectivorous bird, or destroy or take the eggs or nest of any such bird, shall be guilty of a Class V misdemeanor.

(2) The provisions of subsection (1) of this section shall not render it unlawful for anyone operating a game, fur, or fish farm, pursuant to the laws of this state, to at any time kill game or fish actually raised thereon or lawfully placed thereon by such person. Persons holding special permits, under the laws of this state, for the taking or killing of game or other birds or game animals shall not be liable under subsection (1) of this section while acting under the authority of such permits.

Sec. 17. That section 37-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-505. It shall be unlawful to buy, sell, or barter (1) any game bird or part thereof, ~~;--Provided, that except the feathers or skins from legally taken upland game birds, may be sold to licensed fur buyers and purchased from such buyers in the ordinary channels of trade; and provided further, that the Game and Parks Commission may, by regulation, prohibit the sale of feathers or skins of any upland game bird species.~~ For the purposes of this section, upland game birds shall be defined as provided those species of game birds defined in subdivision (5) (6) of section 37-220 37-101; ~~licensed fur buyers are hereby authorized to buy, sell, and deal in feathers or skins from upland game birds~~

~~under the same conditions and provisions relating to the purchase and sale of raw furs as contained in section 37-211 and under the further restrictions of this act or regulations enacted thereunder;~~ (2) any antelope, cottontail rabbit, deer, elk, squirrel, or bullfrog; Provided, that deer and antelope hides from legally taken deer and antelope may be sold when tagged by the licensed taker thereof; or (3) any game fish protected by this act at any time, whether killed or taken within or without this state, or for any commercial institution, commission house, restaurant, or cafe keeper to have in possession at any time game birds or game animals protected by this act. Game fish lawfully shipped in from without the state, by residents of this state, or game or fish lawfully acquired from a lawful game farm or a person having a fish culture permit, may be sold in this state. The burden of proof shall be upon every such dealer and keeper to show by competent and satisfactory evidence that any game or game fish in his or her possession or sold by him or her was lawfully imported from without the state or was lawfully acquired from a licensed game farm or a person having a fish culture permit. Nonresidents holding a valid nonresident fish dealer's permit may possess, buy, sell, transport, and ship live bait minnows and live fish, all frogs and crayfish, legally obtained from without this state, or from a licensed fish hatchery, in accordance with the regulations of the Game and Parks Commission. The fee for a nonresident fish dealer's permit shall be one hundred dollars.

Sec. 18. That section 37-508, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-508. Every express company and common carrier, their officers, agents, and servants, and every other person who shall transfer or carry from one point to another within the state, or take out of the state, or who shall receive for the purpose of transferring from this state any raw furs protected by this act, except as herein permitted, shall be guilty of a misdemeanor. It shall be lawful for any express company, railroad or common carrier, or any postmaster, to receive raw furs protected by this act for transportation from one point to another by express, baggage, or mail during the open season and ten days thereafter, or such further period as may be specifically granted a shipper by the Game and Parks Commission, when said raw fur is accompanied by a tag furnished by the Game and Parks Commission and placed upon the package giving the name of the consignee and the number of his or her fur harvesting trapping permit and a description of the kind and number of each kind of raw fur in said shipment, a duplicate portion of said tag to

be filled out as above mentioned and sent to the secretary of the Game and Parks Commission; Provided, however, it shall be lawful for such common carriers to accept and transport to any point within or without the State of Nebraska, at any time, beaver pelts stamped as provided by section 37-304.02.

Sec. 19. That section 37-510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-510. It shall be unlawful for anyone to hunt for any game, wild animal or bird or fish upon any private lands without permission of the owner. It shall be unlawful for anyone to trap or otherwise harvest fur-bearing animals upon the lands of another without his or her consent. Animals and the pelts thereof taken contrary to this section may be replevined by the owner of the lands. The word owner as herein used means the actual owner of the land and any tenant or agent in possession or charge thereof for him or her.

Sec. 20. That section 37-714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-714. A permit, to be known as a Game Fancier or Pet Permit, may be issued to any citizen of this state authorizing the keeping of not more than fifty wild birds and animals which have been, or which shall be, acquired without violation of any provision of law or any regulation duly promulgated by the Game and Parks Commission. The commission shall by rule exempt from the provisions of this section the keeping of such birds or animals as are ordinarily kept as household pets when such exemptions would involve no danger to the efficient management of game in this state. The fee for such permit shall be ~~one-dollar~~ seven dollars and fifty cents per year.

Sec. 21. That section 37-715, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-715. A permit, to be known as a Commercial Game or Fur Farmer Permit, may be issued to any citizen of this state authorizing the possession and rearing in captivity, of game birds, game animals, or fur bearers which have been, or which shall be, acquired without violation of any provision of law or regulation duly promulgated by the Game and Parks Commission. The fee for such permit shall be ~~ten~~ twenty-five dollars per year. The holder of any such permit must comply with all

provisions of Chapter 37, article 7.

Sec. 22. That section 81-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-805. Except as herein otherwise provided, the Game and Parks Commission shall have sole charge of state parks, game and fish, recreation grounds, and all things pertaining thereto. All funds rendered available by law, including funds already collected for said purposes, may be used by the commission in administering and developing such resources. The commission shall adopt and carry into effect plans to replenish and stock the state with game and whenever it is in the best interest of the public to do so, to stock the streams, lakes, and ponds, whether public or private, of this state with fish. It may plan such extensions and additions to existing hatcheries and such new plants as may be necessary to supply fully the state with game and fish, and cause said plans to be executed, after ascertaining the cost thereof. With the consent of the Governor, it may by purchase, when funds on hand or appropriated therefor are sufficient, or by gift, devise, or otherwise, acquire title in the name of the State of Nebraska to sites therein situated outside organized municipalities, for additional state parks, hatcheries, recreation grounds, game farms, game refuges, and public shooting grounds, and may enter into appropriate contracts with reference thereto, all within the limits of amounts that may be appropriated, contributed, or available therefor. For these purposes, the commission may enter into appropriate contracts, leases, or lease-purchase agreements. The commission, with the consent of the Governor, is authorized to take, receive, and hold, either in the name of the state or in trust for the state, exempt from taxation, any grant or devise of lands and any gift or bequest of money or other personal property made in furtherance of the purposes contemplated by this section, and shall have such funds, or the proceeds of such property, invested. Such invested funds shall be known as the State Park and Game Refuge Fund, and shall be used and expended under the direction of the commission. Any money in the State Park and Game Refuge Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1259. The commission is authorized to make a survey of all lands and areas in the state which are suitable for state parks, game refuges, or other similar purposes contemplated by this section, and to locate and designate any or all of such lands or areas, or parts thereof, and to take such action as may tend to preserve or conserve the same. The commission shall publish such

informational material as it deems necessary and may, at its discretion, charge appropriate fees therefor. The commission is authorized and empowered to adopt and promulgate rules and regulations, under the procedures set forth in sections 84-901 to 84-919, governing the administration and use of all property, real and personal, under its ownership or control, and the commission is charged with the duty and responsibility of adopting such regulations as it shall deem necessary to administer the following activities and facilities:

(1) The commission may adopt regulations to designate camping areas on appropriate lands under its ownership or control and to permit camping thereon. As a condition to such permission, the commission may prescribe such rules and regulations as are reasonable and proper governing public use of such camping areas including, but not limited to, access to camping areas, area capacity, sanitation, opening and closing hours, public safety, fires, establishment and collection of fees where appropriate, protection of property, and zoning of activities, such rules and regulations to be posted on appropriate signs at the areas; Provided, that any person who camps on lands owned or controlled by the commission not designated as a camping area by the commission, or any person who fails to observe the conditions of occupancy, use, or access, posted as provided in this section, shall not have permission. Any person violating the provisions of the regulations above authorized shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(2) The commission may adopt regulations permitting any type of fire, including the smoking of tobacco in any form, and providing for the size, location, and the conditions under which a fire may be established on any area under its ownership or control. The commission may enact regulations permitting the possession, or use, of any type of fireworks not prohibited by law on any areas under its ownership or control. The commission may adopt regulations authorizing management personnel to temporarily revoke permission by the posting of appropriate signs for all fires of any kind whatsoever, including smoking and the use of fireworks, in any area under its ownership or control, when such posting is in the interest of public health, safety, and welfare, or for the preservation of property; Provided, that any person who shall light any type of fire, who shall use any fireworks, or who shall smoke tobacco in any form, or who shall leave, unattended and unextinguished, any fire of any type in any location, in any area under the ownership or control of the

commission, unless the commission shall have given permission, which permission shall not have been revoked, to such type of fire, use or possession of fireworks, or to such smoking of tobacco, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(3) The commission may adopt regulations permitting pets, domestic animals, and poultry, to be brought upon, possessed, grazed, maintained, or run at large, on any area, or portion of any area, under its ownership or control; Provided, that any person who brings upon, possesses, grazes, maintains, or permits to run at large his pets, domestic animals, or poultry on any area, or portion of any area, under the ownership or control of the commission, unless the commission shall have permitted such bringing upon, possession, grazing, maintaining, or running at large, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(4) The commission is authorized to enact regulations, temporarily or permanently, permitting hunting, fishing, or the public use of firearms, bow and arrow, or any other projectile weapons or devices on any area or any portion of any area under its ownership or control. The commission is authorized to enact special regulations permitting trapping and other forms of fur harvesting on any such area or areas; Provided, that any person who shall, without the permission of the commission, hunt, fish, trap, harvest fur, or use firearms, bow and arrow, or any other projectile weapon or device on any area or any portion of any area under the ownership or control of the commission, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(5) The commission is authorized to enact regulations permitting swimming, bathing, boating, wading, water skiing, and the use of any floatation device on all or any portion of any area under its ownership or control. Such regulations may include permission for swimming, bathing, boating, water skiing, wading, or the use of floatation devices, and all other water-related recreational activities in all areas, or any portion of any specific area, under the ownership or control of the commission, and may provide for special general conditions for specific swimming, water skiing, boating, bathing, or wading areas, which shall be posted at such areas; Provided, that any person who shall swim, bathe, boat, wade, water ski, or use any floatation device on all or any portion of any area under the

ownership or control of the commission, unless the commission shall have given permission for such activity in the specific area or portion thereof, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(6) The commission may enact regulations relating to the protection, use or removal of, any public real or personal property on any area under its ownership or control, and may regulate or prohibit the construction or installation of any privately-owned structure on such area. The commission may close all or any portion of any area under its ownership or control to any form of public use or access with the erection of proper signs, without the enactment of formal written regulations; Provided, that any person who shall, without the permission of the commission, construct or install any privately-owned structure, or who shall use or remove any public real or personal property, on any area under the ownership or control of the commission, or who shall enter or remain upon all or any portion of any area under the ownership or control of the commission, where proper signs or public notices prohibiting the same have been erected or displayed, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(7) Any person who shall abandon any motor vehicle, trailer, or other conveyance, in any area under the ownership or control of the commission, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(8) The commission is authorized to enact regulations permitting the sale, trade, or vending of any goods, products, or commodities of any type in any area under its ownership or control; Provided, that any person who shall sell, trade, or vend any goods, products, or commodities of any type, in any area under the ownership or control of the commission, without having received the prior permission of the commission for such activity, shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished as provided in subdivision (9) of this section;

(9) Where the permission of the commission is required as a prerequisite to any activity set out in this section, such permission shall be established by resolution of the commission; Provided, that such resolution may set out the circumstances under which the supervisor or managing official in charge of any area under the ownership or control of the commission may give

such permission in emergency situations, and such resolutions may further provide for the revocation of such permission by the secretary of the commission, or by the supervisor or managing official of any area under the ownership and control of the commission. The commission, with regard to roads on any area under its ownership or control, may establish such regulations deemed necessary as authorized by sections 39-663 and 39-697. Any law enforcement official, including any conservation officer or deputy conservation officer, is authorized to enforce the provisions of this section and the rules and regulations established under the authority of sections 39-663 and 39-697. Where a violation has occurred in or on any area under the ownership or control of the commission any conservation officer or deputy conservation officer may arrest and detain any person committing such violation, or committing any misdemeanor or felony as provided by the laws of this state until a legal warrant can be obtained. Any person guilty of a violation as set forth in this section or rules and regulations established under the authority of sections 39-663 and 39-697 shall be guilty of a Class V misdemeanor. ~~upon conviction thereof, be punished by a fine of not less than ten dollars, nor more than one hundred dollars, or by imprisonment in the county jail not to exceed thirty days, or both such fine and imprisonment.~~

The commission is authorized to issue, regardless of any other requirements or qualifications of law, without cost, special fishing permits to wards of the state, on a group basis, for therapeutic purposes, when application has been made to the commission by the head of the appropriate state institution involved. The commission is further authorized to enter into agreements with other states bordering on the Missouri River providing for reciprocal recognition of licenses, permits, and laws of the agreeing states. The commission may disseminate information on the state park system and the wildlife resources of the state so as to inform the public of the outdoor recreation opportunities to be found in Nebraska.

The commission is authorized to grant easements across real estate under its control for purposes that are in the public interest and do not negate the primary purpose for which the real estate is owned or controlled by the commission.

Sec. 23. This act shall become operative on January 1, 1982.

Sec. 24. That original sections 37-101, 37-201, 37-204.01, 37-208, 37-211, 37-212, 37-214.01, 37-216.01, 37-301, 37-304, 37-304.02, 37-308, 37-505, 37-508, 37-510, 37-714, 37-715, and 81-805, Reissue Revised Statutes of Nebraska, 1943, and sections 37-202, 37-204, 37-213, and 37-215, Revised Statutes Supplement, 1980, are repealed.