

## LEGISLATIVE BILL 41

Approved by the Governor April 14, 2011

Introduced by Hadley, 37.

FOR AN ACT relating to the Game Law; to amend sections 37-238, 37-405, 37-420, 37-421, 37-421.01, 37-427, 37-461, 37-464, 37-483, 37-484, 37-485, 37-487, 37-488, 37-489, 37-490, 37-492, 37-497, 37-498, 37-4,103, 37-503, 37-512, 37-615, and 37-618, Reissue Revised Statutes of Nebraska, and sections 37-327, 37-407, 37-411, 37-426, 37-431, and 37-450, Revised Statutes Cumulative Supplement, 2010; to change and eliminate provisions relating to fees, falconry, beaver and muskrat damage, controlled shooting areas, and possession of game; to change and eliminate provisions relating to licenses, permits, and stamps issued under the Game Law; to harmonize provisions; to repeal the original sections; and to outright repeal sections 37-460, 37-499, 37-4,100, 37-4,101, 37-4,102, and 37-562, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 37-238, Reissue Revised Statutes of Nebraska, is amended to read:

37-238 Raptor means any bird of the Accipitriformes, Falconiformes, or Strigiformes, except the golden and bald eagles-including, but not limited to, caracaras, eagles, falcons, harriers, hawks, kites, osprey, owls, and vultures.

Sec. 2. Section 37-327, Revised Statutes Cumulative Supplement, 2010, is amended to read:

37-327 (1) The commission shall establish fees for licenses, permits, stamps, bands, registrations, and certificates issued under the Game Law and the State Boat Act and shall establish the fee required by section 37-562 as provided in such law, act, and section. the Game Law and State Boat Act. The commission shall not increase any fee more than six percent per year, except that if a fee has not been increased by such percentage in the immediately preceding year, the difference between a six percent increase and the actual percentage increase in such preceding year may be added to the percentage increase in the following year. Such fees shall be collected and disposed of as provided in such law, act, and section. the Game Law and State Boat Act. The commission shall, as provided in such law, act, and section, the Game Law and State Boat Act, establish issuance fees to be retained by authorized agents of issuing such licenses, permits, stamps, bands, registrations, and certificates. under such law, act, and section. The commission shall establish such fees by the adoption and promulgation of rules and regulations.

(2) Prior to establishing any fee, the commission shall, at least thirty days prior to the hearing required in section 84-907, make the following information available for public review:

(a) The commission's policy on the minimum cash balance to be maintained in the fund in which the revenue from the fee being established is deposited and the justification in support of such policy;

(b) Monthly estimates of cash fund revenue, expenditures, and ending balances for the current fiscal year and the following two fiscal years for the fund in which the revenue from the fee being established is deposited. Estimates shall be prepared for both the current fee schedule and the proposed fee schedule; and

(c) A statement of the reasons for establishing the fee at the proposed level.

(3) The commission may adopt and promulgate rules and regulations to establish fees for expired licenses, permits, stamps, bands, registrations, and certificates issued under the Game Law and the State Boat Act. The commission shall collect the fees and remit them to the State Treasurer for credit to the State Game Fund.

Sec. 3. Section 37-405, Reissue Revised Statutes of Nebraska, is amended to read:

37-405 (1) The commission shall provide for the issuance of permits to hunt, fish, or harvest fur. Application for such permits shall be made to the commission or its agents and shall contain such information as may be prescribed by the commission. All applications for permits to harvest fur shall include the applicant's social security number. A permit shall authorize the person to whom it is issued to hunt, fish, or harvest fur-bearing animals as provided by the Game Law during the period for which the permit is issued.

(2) If the holder of a hunting permit is a hunter of migratory game birds, he or she shall be required to declare himself or herself as such and provide information regarding his or her migratory game bird hunting activity to the commission. Documentation of such a declaration shall be made on the hunting permit or a separate document which shall become a part of the permit. Costs to the commission of implementing such declaration and documentation and for participation in a federal program designed to obtain survey information on migratory bird hunting activity shall be funded from the State Game Fund. For purposes of this subsection, migratory bird has the definition found in 50 C.F.R. part 10, subpart B, section 10.12, and migratory game bird has the definition found in 50 C.F.R. part 20, subpart B, section 20.11(a).

~~(3)~~ (3)(a) All permits shall expire at midnight on December 31 in the year for which the permit is issued, except as otherwise provided in subdivision (b) of this subsection and sections 37-415, 37-420, and 37-421.

(b) The commission may issue multiple-year permits to hunt, fish, or harvest fur. The permits shall expire at midnight on December 31 in the last year for which the permit is valid.

(c) A multiple-year permit issued to a resident of Nebraska shall not be made invalid by reason of the holder subsequently residing outside of Nebraska.

(4) A person who is hunting, fur harvesting, or fishing shall present evidence of having a permit immediately upon demand to any officer or person whose duty it is to enforce the Game Law. Any person hunting, fishing, or fur harvesting in this state without such evidence shall be deemed to be without such permit.

(5) The commission shall adopt and promulgate rules and regulations necessary to carry out this section.

Sec. 4. Section 37-407, Revised Statutes Cumulative Supplement, 2010, is amended to read:

37-407 (1) The commission may offer multiple-year permits or combinations of permits at reduced rates and may establish fees pursuant to section 37-327 to be paid to the state for resident and nonresident annual hunting permits, annual fishing permits, three-day fishing permits, one-day fishing permits, combination hunting and fishing permits, fur-harvesting permits, and nonresident special two-day hunting permits issued for periods of two consecutive days, as provided in this section, between the Wednesday immediately preceding Thanksgiving Day and December 31 of the same calendar year and limited to one special two-day permit per applicant per year, as follows:

(2) The fee for a multiple-year permit shall be established by the commission pursuant to section 37-327 and shall not be more than the number of years the permit will be valid times the fee required for an annual permit as provided in subsection (3) or (4) of this section. Payment for a multiple-year permit shall be made in a lump sum at the time of application. A replacement multiple-year permit may be issued under section 37-409 if the original is lost or destroyed.

~~(1)~~ (3) Resident fees shall be (a) not more than thirteen dollars for an annual hunting permit, (b) not more than seventeen dollars and fifty cents for an annual fishing permit, (c) not more than eleven dollars and fifty cents for a three-day fishing permit, (d) not more than eight dollars for a one-day fishing permit, (e) not more than twenty-nine dollars for both an annual fishing and hunting permit, and (f) not more than twenty dollars for an annual fur harvesting permit.† and

~~(2)~~ (4) Nonresident fees shall be (a) not more than two hundred sixty dollars for a period of time specified by the commission for fur harvesting one thousand or less fur-bearing animals and not more than seventeen dollars and fifty cents additional for each one hundred or part of one hundred fur-bearing animals harvested, (b)(i) for persons sixteen years of age and older, not more than eighty dollars for an annual hunting permit and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision ~~(1)~~(a) (3)(a) of this section for an annual hunting permit, (c) not more than ~~thirty-five~~ fifty-five dollars for a special two-day hunting permit plus the cost of a habitat stamp, (d) not more than nine dollars for a one-day fishing permit, (e) not more than sixteen dollars and fifty cents for a three-day fishing permit, (f) not more than forty-nine dollars and fifty cents for an annual fishing permit, and (g)(i) for persons sixteen years of age and older, not more than one hundred fifty dollars for both an annual fishing and hunting permit and (ii) for persons under sixteen years of age, not less than the fee required pursuant to subdivision ~~(1)~~(e) (3)(e) of this section for both an annual fishing and hunting permit.

Sec. 5. Section 37-411, Revised Statutes Cumulative Supplement, 2010, is amended to read:

37-411 (1) Unless issued a permit as required in the Game Law, it shall be unlawful:

(a) For any resident of Nebraska who is sixteen years of age or older or any nonresident of Nebraska to engage in fur harvesting or possess 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.~~ Nonresident fur-harvesting permits may be issued only to residents of states which issue similar permits to residents of Nebraska;

(b) For any resident of Nebraska who is sixteen years of age or older or any nonresident of Nebraska to hunt or possess any kind of game birds, game animals, or crows;

(c) For any person who is sixteen years of age or older to hunt or possess any migratory waterfowl without a federal migratory bird hunting stamp and a Nebraska migratory waterfowl stamp as required under the Game Law and rules and regulations of the commission; or

(d) For any person who is sixteen years of age or older to take any kind of fish, bullfrog, snapping turtle, tiger salamander, or mussel from the waters of this state or possess the same except as provided in section 37-402. All nonresident anglers under sixteen years of age shall be accompanied by a person who has a valid fishing permit.

(2) It shall be unlawful for a nonresident to hunt or possess any kind of game birds or game animals, to take any kind of fish, mussel, turtle, or amphibian, or to harvest fur with a resident permit illegally obtained.

(3) It shall be unlawful for anyone to do or attempt to do any other thing for which a permit is required by the Game Law without first obtaining such permit and paying the fee required.

(4) Any nonresident who hunts or has in his or her possession any wild mammal or wild bird shall first have a nonresident hunting permit as required under the Game Law and rules and regulations of the commission.

(5) Any nonresident who takes or has in his or her possession any wild turtle, mussel, or amphibian shall first have a nonresident fishing permit as required under the Game Law and rules and regulations of the commission.

(6) Except as provided in this section and sections 37-407 and 37-418, 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.

(7)(a) Any person violating this section shall be guilty of a Class II misdemeanor and, upon conviction, shall be fined at least fifty dollars for failure to hold the appropriate stamp under subdivision (1)(c) of this section, at least one hundred dollars for failure to hold a fishing permit, at least one hundred fifty dollars for failure to hold a small game, fur-harvesting, paddlefish, or deer permit, at least two hundred fifty dollars for failure to hold an antelope permit, at least five hundred dollars for failure to hold an elk permit, and at least one thousand dollars for failure to hold a mountain sheep permit.

(b) If the offense is 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 proof of such purchase to the court.

Sec. 6. Section 37-420, Reissue Revised Statutes of Nebraska, is amended to read:

37-420 (1) Any veteran who is a legal resident of the State of Nebraska and who was discharged or separated with a characterization of honorable or general ~~(under honorable conditions)~~ shall be exempt from the payment of any fees provided by the laws of the State of Nebraska and established by the commission pursuant to section 37-327 for the privilege of fishing or hunting in Nebraska shall, upon application and without payment of any fee, be issued a combination fishing and hunting permit, habitat stamp, aquatic habitat stamp, and Nebraska migratory waterfowl stamp if the veteran:

(a) Was discharged or separated with a characterization of honorable or general (under honorable conditions); and

~~(a)~~ (b) (i) Is rated by the United States Department of Veterans Affairs as fifty percent or more disabled as a result of service in the armed forces of the United States; or

~~(b)~~ (ii) Is receiving a pension from the department as a result of total and permanent disability, which disability was not incurred in the line of duty in the military service.

~~(2) The exemption described in subsection (1) of this section shall not extend to the privilege of commercial fishing, trapping of fur-bearing animals, or hunting for deer, antelope, wild turkey, or any other species of fish and game on which the open season is limited to a restricted number of~~

~~permits or to special permits for a restricted area or game management unit.~~

~~(3) (2)~~ If disabled persons are unable by reason of physical infirmities to hunt and fish in the normal manner, the commission may issue special permits without cost to those persons to hunt and fish from a vehicle, but such permits shall not authorize any person to shoot from any public highway.

~~(4) (3)~~ All permits issued without the payment of any fees pursuant to this section shall be perpetual and become void only upon termination of eligibility as provided in this section.

~~(5) (4)~~ The commission may adopt and promulgate rules and regulations necessary to carry out this section.

~~(6) (5)~~ Permits issued under subdivision (3) of this section as it existed prior to January 1, 2006, shall not expire as provided in section 37-421.

Sec. 7. Section 37-421, Reissue Revised Statutes of Nebraska, is amended to read:

37-421 (1) The commission may issue an annual combination fishing and hunting permit, habitat stamp, aquatic habitat stamp, and Nebraska migratory waterfowl stamp upon application and payment of a fee of five dollars to (a) any Nebraska resident who is a veteran, who is sixty-four years of age or older, and who was discharged or separated with a characterization of honorable or general (under honorable conditions) or (b) any Nebraska resident who is sixty-nine years of age or older. A person who is issued a permit under this section shall be exempt from the payment of any additional fees provided by the laws of the State of Nebraska and established by the commission pursuant to section 37-327 for the privilege of fishing or hunting in Nebraska, ~~except that such exemption shall not extend to the privilege of commercial fishing, trapping of fur-bearing animals, or hunting for deer, antelope, wild turkey, or any other species of fish and game on which the open season is limited to a restricted number of permits or to special permits for a restricted area or game management unit.~~

(2) A permit issued as provided in this section shall expire as provided in subdivision (3)(a) of section 37-405. Permits issued under this section as it existed before January 1, 2006, shall not expire as provided in section 37-405.

(3) If disabled persons are unable by reason of physical infirmities to hunt and fish in the normal manner, the commission may issue special permits without cost to those persons to hunt and fish from a vehicle, but such permits shall not authorize any person to shoot from any public highway.

(4) The commission may adopt and promulgate rules and regulations necessary to carry out this section.

Sec. 8. Section 37-421.01, Reissue Revised Statutes of Nebraska, is amended to read:

37-421.01 (1) Notwithstanding any provision of section 37-407 to the contrary, a Nebraska resident who ~~purchased a hunting, fishing, or combination hunting and fishing permit and who was is~~ deployed out of state with a branch of the United States military or has been so deployed within the last twelve months at the time of application shall be entitled to receive a discounted permit an annual combination fishing and hunting permit, habitat stamp, aquatic habitat stamp, and Nebraska migratory waterfowl stamp on a one-time basis upon returning to the state if the resident:

(a) Submits an application to the commission with a fee of five dollars; and

~~(a) (b)~~ Provides to the commission satisfactory proof of purchase of the original permit and evidence of the resident's deployment out of state during the period of the original permit; and

~~(b) Was deployed out of state for more than one-half of the period of the original permit.~~

(2)(a) Notwithstanding any provision of section 37-447, 37-449, 37-450, 37-451, or 37-457 to the contrary, a Nebraska resident who purchased a big game permit and who was deployed out of state with a branch of the United States military for the entire season of the hunt and who was unable to use the permit shall be entitled to receive a discounted permit on a one-time basis upon returning to the state if the resident provides to the commission satisfactory proof of purchase of the original permit and evidence of the resident's deployment. Alternatively, the member of the military may request a refund of the amount paid for a big game permit and the commission shall pay such amount.

(b) For purposes of this subsection, big game means antelope, deer, elk, mountain sheep, and wild turkeys.

~~(3) (c)~~ The commission shall establish a fee of five dollars for the discounted permits authorized in this ~~section.~~ subsection.

(3) The commission may authorize electronic issuance of the discounted permits authorized under this section.

(4) The commission may adopt and promulgate rules and regulations that set forth the procedures for applying for, and the issuance of, the discounted permits authorized in this section, including what constitutes evidence of deployment to qualify for the permits.

Sec. 9. Section 37-426, Revised Statutes Cumulative Supplement, 2010, is amended to read:

37-426 (1) Except as provided in subsection (4) of this section:

(a) No resident of Nebraska sixteen years of age or older and no nonresident of Nebraska regardless of age shall hunt, harvest, or possess any game bird, upland game bird, game animal, or fur-bearing animal unless, at the time of such hunting, harvesting, or possessing, such person has an unexpired habitat stamp as prescribed by the rules and regulations of the commission prior to the time of hunting, harvesting, or possessing such bird or animal;

(b) No resident or nonresident of Nebraska shall take or possess any aquatic organism requiring a Nebraska fishing permit, including any fish, bullfrog, snapping turtle, tiger salamander, or mussel, unless, at the time of such taking or possessing, such person has an unexpired aquatic habitat stamp as prescribed by the rules and regulations of the commission prior to the time of taking or possessing a fish, bullfrog, snapping turtle, tiger salamander, or mussel; and

(c) No resident of Nebraska sixteen years of age or older and no nonresident of Nebraska regardless of age shall hunt, harvest, or possess any migratory waterfowl unless, at the time of such hunting, harvesting, or possessing, such person has an unexpired Nebraska migratory waterfowl stamp as prescribed by the rules and regulations of the commission prior to the time of hunting, harvesting, or possessing such migratory waterfowl.

(2)(a) The commission may issue a lifetime habitat stamp upon application and payment of the appropriate fee. The fee for a lifetime habitat stamp shall be twenty times the fee required in subsection (5) of this section for an annual habitat stamp. Payment of such fee shall be made in a lump sum at the time of application. A replacement lifetime habitat stamp may be issued if the original is lost or destroyed. The fee for a replacement shall be not more than five dollars, as established by the commission.

(b) The commission may issue a lifetime Nebraska migratory waterfowl stamp upon application and payment of the appropriate fee. The fee for a lifetime Nebraska migratory waterfowl stamp shall be twenty times the fee required in subsection (5) of this section for an annual Nebraska migratory waterfowl stamp. Payment of such fee shall be made in a lump sum at the time of application. A replacement Nebraska lifetime migratory waterfowl stamp may be issued if the original is lost or destroyed. The fee for a replacement shall be not more than five dollars, as established by the commission.

~~(3) (c) The commission may issue a lifetime aquatic habitat stamp upon application and payment of the appropriate fee. The fee for a lifetime aquatic habitat stamp shall be not more than two hundred dollars as established by the commission pursuant to section 37-327. Payment of such fee shall be made in a lump sum at the time of application. A lifetime aquatic habitat stamp shall not be made invalid by reason of the holder subsequently residing outside the state. A replacement lifetime aquatic habitat stamp may be issued if the original is lost or destroyed. The fee for a replacement shall be not more than five dollars, as established by the commission.~~

(3)(a) The commission may issue a multiple-year habitat stamp upon application and payment of the appropriate fee. The fee for a multiple-year habitat stamp shall be established by the commission pursuant to section 37-327 and shall not be more than the number of years the stamp is valid times the fee required in subsection (5) of this section for an annual habitat stamp. Payment of such fee shall be made in a lump sum at the time of application. A replacement multiple-year habitat stamp may be issued if the original is lost or destroyed.

(b) The commission may issue a multiple-year Nebraska migratory waterfowl stamp upon application and payment of the appropriate fee. The fee for a multiple-year Nebraska migratory waterfowl stamp shall be established by the commission pursuant to section 37-327 and shall not be more than the number of years the stamp is valid times the fee required in subsection (5) of this section for an annual Nebraska migratory waterfowl stamp. Payment of such fee shall be made in a lump sum at the time of application. A replacement Nebraska multiple-year migratory waterfowl stamp may be issued if the original is lost or destroyed.

(c) The commission may issue a multiple-year aquatic habitat stamp upon application and payment of the appropriate fee. The fee for a multiple-year aquatic habitat stamp shall be established by the commission

pursuant to section 37-327 and shall not be more than the number of years the stamp is valid times the fee required in subsection (5) of this section for an annual aquatic habitat stamp. Payment of such fee shall be made in a lump sum at the time of application. A replacement multiple-year aquatic habitat stamp may be issued if the original is lost or destroyed.

(4) Habitat stamps are not required for holders of limited permits issued under section 37-455. Aquatic habitat stamps are not required (a) when a fishing permit is not required, (b) for holders of permits pursuant to section 37-424, or (c) for holders of lifetime fishing permits or lifetime combination hunting and fishing permits purchased prior to January 1, 2006. Nebraska migratory waterfowl stamps are not required for hunting, harvesting, or possessing any species other than ducks, geese, or brant. For purposes of this section, a showing of proof of the electronic issuance of a stamp by the commission shall fulfill the requirements of this section.

~~(5)~~ (5) (a) Any person to whom a stamp has been issued shall, immediately upon request, exhibit evidence of issuance of the stamp to any officer. Any person hunting, fishing, harvesting, or possessing any game bird, upland game bird, game animal, or fur-bearing animal or any aquatic organism requiring a fishing permit in this state without evidence of issuance of the appropriate stamp shall be deemed to be without such stamp.

(b) An annual A habitat stamp shall be issued upon the payment of a fee of twenty dollars per stamp. A multiple-year habitat stamp shall be issued in conjunction with a multiple-year hunting permit or a multiple-year combination hunting and fishing permit at a fee of not more than twenty dollars times the number of years the multiple-year permit is valid.

(c) An aquatic habitat stamp shall be issued in conjunction with each fishing permit for a fee of ten dollars per stamp for annual fishing permits, three-day fishing permits, or combination hunting and fishing permits, a fee of not more than ten dollars times the number of years the multiple-year fishing permit or a multiple-year combination hunting and fishing permit is valid, and a fee of not more than two hundred dollars for lifetime fishing or combination hunting and fishing permits. The fee established under section 37-407 for a one-day fishing permit shall include an aquatic habitat stamp. One dollar from the sale of each one-day fishing permit shall be remitted to the State Treasurer for credit to the Nebraska Aquatic Habitat Fund.

(d) An annual A Nebraska migratory waterfowl stamp shall be issued upon the payment of a fee of not more than sixteen dollars per stamp. A multiple-year Nebraska migratory waterfowl stamp may only be issued in conjunction with a multiple-year hunting permit or a multiple-year combination hunting and fishing permit at a fee of not more than twenty dollars times the number of years the multiple-year permit is valid.

(e) The commission shall establish the fees pursuant to section 37-327.

Sec. 10. Section 37-427, Reissue Revised Statutes of Nebraska, is amended to read:

37-427 The habitat stamp, aquatic habitat stamp, or Nebraska migratory waterfowl stamp required by section 37-426 is not transferable. The and, except for the lifetime habitat stamp, the lifetime aquatic habitat stamp, and the lifetime Nebraska migratory waterfowl stamp, and a do not expire. A multiple-year stamp expires at midnight on December 31 in the last year for which the multiple-year stamp is valid. A habitat stamp purchased for a permit which is valid into the next calendar year, expires when the permit expires. Any other stamp expires at midnight on December 31 in the year for which the stamp is issued.

Sec. 11. Section 37-431, Revised Statutes Cumulative Supplement, 2010, is amended to read:

37-431 (1) (a) The Nebraska Habitat Fund is created. The commission shall remit fees received for annual and multiple-year habitat stamps and annual and multiple-year Nebraska migratory waterfowl stamps to the State Treasurer for credit to the Nebraska Habitat Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Up to twenty-five percent of the annual receipts of the fund may be spent by the commission to provide access to private wildlife lands and habitat areas, and the remainder of the fund shall not be spent until the commission has presented a habitat plan to the Committee on Appropriations of the Legislature for its approval.

(b) Fees received for lifetime habitat stamps and lifetime Nebraska migratory waterfowl stamps under the Game Law shall be credited to the Nebraska Habitat Fund. Twenty-five percent of the fees for such stamps shall not be expended but may be invested by the state investment officer pursuant

to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Income from such investments may be expended by the commission pursuant to section 37-432.

(2) (a) The Nebraska Aquatic Habitat Fund is created. The commission shall remit fees received for annual and multiple-year aquatic habitat stamps and one dollar of the one-day fishing permit fee as provided in section 37-426 to the State Treasurer for credit to the Nebraska Aquatic Habitat Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Up to thirty percent of the annual receipts of the fund may be spent by the commission to provide public waters angler access enhancements and to provide funding for the administration of programs related to aquatic habitat and public waters angler access enhancements, and the remainder of the fund shall not be spent until the commission has presented a habitat plan to the Committee on Appropriations and the Committee on Natural Resources of the Legislature for their approval.

(b) Fees received for lifetime aquatic habitat stamps shall be credited to the Nebraska Aquatic Habitat Fund and shall not be expended but may be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Income from such investments may be expended by the commission pursuant to section 37-432.

(3) The secretary of the commission and any county clerk or public official designated to sell habitat stamps, aquatic habitat stamps, or Nebraska migratory waterfowl stamps shall be liable upon their official bonds or equivalent commercial insurance policy for failure to remit the money from the sale of the stamps, as required by sections 37-426 to 37-433, coming into their hands. Any agent who receives stamp fees and who fails to remit the fees to the commission within a reasonable time after demand by the commission shall be liable to the commission in damages for double the amount of the funds wrongfully withheld. Any agent who purposefully fails to remit such fees with the intention of converting them is guilty of theft. The penalty for such violation shall be determined by the amount converted as specified in section 28-518.

Sec. 12. Section 37-450, Revised Statutes Cumulative Supplement, 2010, is amended to read:

37-450 (1) The commission may issue permits for hunting elk and may adopt and promulgate separate and, when necessary, different rules and regulations therefor within the limitations prescribed in sections 37-447 and 37-452 for hunting deer.

(2) The commission shall, pursuant to section 37-327, establish and charge (a) a nonrefundable application fee of not more than eight dollars and fifty cents for a resident elk permit and not to exceed three times such amount for a nonresident elk permit and (b) a fee of not more than one hundred forty-nine dollars and fifty cents for each resident elk permit issued and not to exceed three times such amount for each nonresident elk permit issued.

(3) A person may obtain only one antlered-elk permit in his or her lifetime except for a limited permit to hunt elk pursuant to section 37-455 and an auction or lottery permit pursuant to section 37-455.01.

(4) The provisions for the distribution of deer permits and the authority of the commission to determine eligibility of applicants for permits as described in sections 37-447 and 37-452 shall also apply to the distribution of elk permits.

(5) Any person violating the rules and regulations adopted and promulgated pursuant to this section shall be guilty of a Class III misdemeanor and shall be fined at least two hundred dollars upon conviction.

Sec. 13. Section 37-461, Reissue Revised Statutes of Nebraska, is amended to read:

37-461 If any dam, canal, drainage ditch, irrigation ditch, private fish pond, aquaculture facility, artificial waterway, railroad embankment, or other property is being damaged or destroyed by muskrats or beavers, the commission may issue a permit to the ~~owner or owners of such dam, canal, ditch, pond, facility, waterway, embankment, or other property~~ person who owns or controls the property allowing the person or his or her designee to take or destroy such muskrats or beavers. The muskrats, beavers, or parts thereof taken under the authority of such permit shall not be sold or used unless the permitholder also possesses a fur-harvesting permit that is current or valid at the time of the sale or use. The ~~and the~~ commission may make and enforce rules adopt and promulgate rules and regulations in connection with the issuance of such permits as are necessary to prevent the illegal destruction of muskrats by any holder of such a permit. Any person violating this section shall be guilty of a Class III misdemeanor and shall be fined at least fifty dollars.

Sec. 14. Section 37-464, Reissue Revised Statutes of Nebraska, is amended to read:

37-464 Except as otherwise provided in the Game Law, it shall be unlawful for any person, other than a person holding a fur-harvesting permit, a captive wildlife permit, a fur buyer's permit, or a permit issued pursuant to section 37-460, 37-461, with regard to pelts of beaver or muskrat taken pursuant to such permits, permit, and officers and employees of the commission, to possess the raw fur, ~~or pelt,~~ or carcass of any fur-bearing animal protected by the Game Law, ~~at any time other than during the open season for such fur-bearing animal and ten days immediately thereafter.~~ Any person who by trapping or other lawful means has become the owner of the raw furs or pelts of such fur-bearing animals during the open season thereon and who during the ten days immediately after the close of such open season has been unable to obtain a satisfactory price for such furs or otherwise has been prevented from lawfully disposing of the same may, during such ten-day period, obtain from the commission a permit to retain possession of such furs for such further period of time as the commission may by rule and regulation designate. All applications for such permits shall be verified under oath, state the number and kind of untanned pelts on hand which it is desired to carry over, be filed with the commission before the expiration of such ten-day period, and be accompanied by the certificate of an employee of the commission or the county sheriff that the applicant, to the personal knowledge of such employee or sheriff, then has on hand the number and kinds of furs for which the permit is applied for. Any person knowingly making or assisting in making a false certificate in connection with such an application shall be guilty of a Class V misdemeanor.

Sec. 15. Section 37-483, Reissue Revised Statutes of Nebraska, is amended to read:

37-483 The construction, operation, and maintenance of a facility commonly known as a recall pen, also known as a recapture pen, which is used for the recapture of marked game birds originating from the holder of a captive wildlife permit in conjunction with dog training or dog trial activities shall be legal if the person owning or controlling such recall pen, prior to the operation thereof, pays an annual fee of not more than fifteen dollars, as established by the commission pursuant to section 37-327, for each recall pen under his or her ownership or control. holds a captive wildlife permit and complies with section 37-479. The commission shall adopt and promulgate rules and regulations for the issuance of permits for recall pens and for the possession and use of recall pens. Nothing in this section shall authorize the use of recall pens for the trapping of other wild birds.

Sec. 16. Section 37-484, Reissue Revised Statutes of Nebraska, is amended to read:

37-484 Any person or persons owning, holding, or controlling by lease or otherwise, which possession must be for a term of five or more years, any ~~contiguous~~ tract or tracts of land having an area of not less than ~~one hundred twenty~~ eighty acres and not more than ~~one thousand two hundred eighty two thousand five hundred sixty~~ acres who desires to establish a game breeding and controlled shooting area to propagate, preserve, and shoot game birds under the regulations as provided in sections 37-484 to 37-496 shall make application to the commission for a license as provided by such sections. Such application shall be made under oath of the applicant or one of its principal officers if the applicant is an association, club, or corporation and shall be accompanied by a license fee of not more than one hundred forty-nine dollars and fifty cents, as established by the commission pursuant to section 37-327. Any controlled shooting area existing on February 18, 1987, shall continue in operation on the existing acreage until such controlled shooting area license is not renewed or canceled. If the applicant is an individual, the application shall include the applicant's social security number.

Sec. 17. Section 37-485, Reissue Revised Statutes of Nebraska, is amended to read:

37-485 Upon receipt of the application, the commission shall inspect the area proposed to be licensed described in such application and its premises and facilities. The commission shall also inspect the area where game birds are to be propagated, reared, and liberated and the cover for game birds on such area. The commission shall also ascertain the ability of the applicant to operate a property of this character. If the commission finds (1) that the area is of the size specified in section 37-484, (2) that the area is ~~contiguous,~~ comprised of one or more tracts and each tract is a distance of no more than two miles from at least one other tract in the proposed area, (3) that the area has the proper requirements for the operation of such a property, (4) that the game birds propagated or released thereon are not likely to be diseased and a menace to other game, (5) that the operation of



such property will not work a fraud upon persons who may be permitted to hunt thereon, and (6) that the issuing of the license will otherwise be in the public interest, the commission shall approve such application and issue a game breeding and controlled shooting area license for the operation of such a property on the tract described in such application with the rights and subject to the limitations prescribed in sections 37-484 to 37-496.

Sec. 18. Section 37-487, Reissue Revised Statutes of Nebraska, is amended to read:

37-487 Upon receipt of ~~the a license under sections 37-484 to 37-496,~~ the licensee shall promptly post such licensed areas at intervals of not more than five hundred feet with signs to be according to the requirements prescribed by the commission. ~~The boundaries of such licensed game breeding and controlled shooting areas shall also be clearly defined by natural boundaries, artificial boundaries, or by signs.~~

Sec. 19. Section 37-488, Reissue Revised Statutes of Nebraska, is amended to read:

37-488 ~~(1)~~ The licensee of any licensed game breeding and controlled shooting area may take or authorize to be taken, within the season fixed and designated and in such numbers as provided in sections 37-484 to 37-496, game birds as specified in rules and regulations of the commission and released on licensed areas during the shooting season as provided in such sections. The commission shall prescribe requirements, in rules and regulations, for the marking and transport of the game birds released.

~~(2) All game birds that are released for shooting purposes shall be at least twelve weeks of age before liberation date.~~

~~(3) All game birds released for hunting on a controlled shooting area shall be marked by banding, toe clipping, or some other method approved by the commission prior to release. Any game bird killed by a hunter on a controlled shooting area which does not have a band shall be banded prior to being transported from such area. The licensee shall pay to the commission the sum of not less than ten cents and not more than fifteen cents, as established by the commission pursuant to section 37-327, for each band used to mark game birds.~~

~~(4) The licensee shall furnish a receipt to each hunter taking game birds on the controlled shooting area which shall indicate the name of the hunter, the date of the taking, the sex and species of the game birds taken, and the name of the controlled shooting area.~~

Sec. 20. Section 37-489, Reissue Revised Statutes of Nebraska, is amended to read:

37-489 For the purpose of sections 37-484 to 37-496, at least five hundred game birds shall be released upon such licensed game breeding and controlled shooting areas in a manner satisfactory to numbers regulated by the commission. The licensee shall keep a register which shall clearly show the number and kind of game birds released and propagated each year, the date of release, the number and kind of game birds taken, the date when taken, and the disposition made of such game birds. The licensee shall also keep such records and make such reports under oath as to game birds released, propagated, and taken, at such times and in such manner as may be required by the commission. ~~The commission shall keep an adequate record of the number of game birds released and propagated on each licensed game breeding and controlled shooting area in each year and of the game birds taken.~~

Sec. 21. Section 37-490, Reissue Revised Statutes of Nebraska, is amended to read:

37-490 No person shall hunt any upland game birds and mallard ducks upon such breeding and controlled shooting area except between September 1 and April 1 of each year, except that turkeys may be hunted throughout the open season and dog training or dog trial activities may be permitted as prescribed by rules and regulations of the commission.

Sec. 22. Section 37-492, Reissue Revised Statutes of Nebraska, is amended to read:

37-492 The commission may adopt and promulgate rules and regulations for carrying out, administering, and enforcing the provisions of sections 37-484 to 37-496. The commission shall limit the number of areas proposed for licensing so that the total acreage licensed for game breeding and controlled shooting areas in any one county does not exceed one two percent of the total acreage of the county in which the areas are sought to be licensed. The commission shall not require distances between boundaries of game breeding and controlled shooting areas to be greater than two miles. ~~No license shall be issued for any game breeding and commercial controlled shooting area established on and after July 15, 1998, whose boundary lies within one mile of a game refuge or wildlife management area. No license shall be issued for any area whereon mallard ducks are shot or to be shot if the area lies within~~

three miles of any river or within three miles of any lake with an area exceeding three acres, except that a license may be issued for such area for the shooting of upland game birds only, and the rearing or shooting of mallard ducks thereon is prohibited.

Sec. 23. Section 37-497, Reissue Revised Statutes of Nebraska, is amended to read:

37-497 (1) The commission may take such steps as it deems necessary to provide for the protection and management of raptors.

(2) The commission may issue falconry licenses to permit permits for the taking and possession of raptors for the purpose of practicing falconry. ~~No such license may be issued to an applicant unless he or she is a resident of the state.~~ A falconry permit may be issued only to a resident of the state who has paid the fees required in this subsection, and has passed a written and oral examination concerning raptors given by the commission or an authorized representative of the commission. The commission shall charge a fee for each ~~license permit~~ of not more than seventeen dollars for persons ~~fourteen~~ twelve to seventeen years of age and not more than forty-six dollars for persons eighteen years of age and older, as established by the commission pursuant to section 37-327. If the applicant fails to pass ~~either the examination, or both of them,~~ he or she shall not be entitled to reapply for a falconry ~~license permit~~ for a period of six months after the date of the examination. A person less than ~~fourteen~~ twelve years of age shall not be issued a falconry ~~license,~~ and a permit. A person from ~~fourteen~~ twelve to seventeen years of age may be issued ~~such a license a permit~~ only if he or she is sponsored by an adult ~~person~~ who has a valid falconry ~~license,~~ permit and appropriate experience. All falconry ~~licenses permits~~ shall be nontransferable and shall expire three years after the date of issuance. If the commission is satisfied as to the competency and fitness of an applicant whose ~~license permit~~ has expired, a ~~license his or her permit~~ may be renewed without requiring further examination ~~under such subject to terms and conditions as are established imposed by the commission.~~ Species The commission shall adopt and promulgate rules and regulations outlining species of raptors which may be taken, captured, or held in possession, ~~shall include only those species authorized by the commission.~~ The number of each species of raptors which may be taken, captured, or held in possession shall be subject to regulation by the commission.

(3) The commission may issue captive propagation ~~licenses to permit permits to allow~~ the captive propagation of raptors. ~~No such license may be issued to an applicant unless he or she is a resident of the state and~~ A permit may be issued to a resident of the state who has paid the fee required in this subsection. The fee for each ~~license permit~~ shall be not more than two hundred thirty dollars, as established by the commission pursuant to section 37-327. All ~~such licenses~~ The permit shall be nontransferable, shall expire three years after the date of issuance, and may be renewed under terms and conditions established by the commission. The commission shall authorize the species and the number of each such species which may be taken, captured, acquired, or held in possession. The commission shall adopt and promulgate rules and regulations governing the issuance and conditions of captive propagation ~~licenses.~~ permits.

(4) The commission may issue raptor collecting permits to nonresidents as prescribed by the rules and regulations of the commission. The fee for a permit shall be not more than two hundred dollars, as established by the commission pursuant to section 37-327. A raptor collecting permit shall be nontransferable. The commission shall adopt and promulgate rules and regulations governing the issuance and conditions of raptor collecting permits.

Sec. 24. Section 37-498, Reissue Revised Statutes of Nebraska, is amended to read:

37-498 (1) It shall be unlawful for any person to take or attempt to take or maintain a raptor in captivity, ~~any raptor,~~ except as otherwise provided by law or by rule or regulation of the commission, unless he or she ~~shall first secure~~ possesses a falconry or permit, a captive propagation license permit, or a raptor collecting permit as required by section 37-497.

(2) No person shall sell, barter, purchase, or offer to sell, barter, or purchase any raptor, raptor egg, or raptor semen, except as permitted under a falconry or captive propagation ~~license permit~~ issued under section 37-497 or the rules and regulations adopted and promulgated by the commission. Nothing in this section shall be construed to permit any sale, barter, purchase, or offer to sell, barter, or purchase any raptor, raptor egg, or raptor semen taken from the wild.

(3) ~~No person shall transport any raptor out of this state for any purpose, except (a) for hunting, exhibition, scientific use, or temporary~~

medical or personal care when authorized by the commission in writing and (b) as permitted under a captive propagation license.

Sec. 25. Section 37-4,103, Reissue Revised Statutes of Nebraska, is amended to read:

37-4,103 Any person violating any provision of ~~sections~~ section 37-497 to 37-4,102 or 37-498 shall be guilty of a Class IV misdemeanor. In and, in addition, the court shall require that any raptor or raptors in the possession of the offender be confiscated and the license order the revocation of the permit of the offender, be revoked.

Sec. 26. Section 37-503, Reissue Revised Statutes of Nebraska, is amended to read:

37-503 It shall be unlawful for anyone, ~~except a holder of an aquaculture permit, a captive wildlife auction permit, or a captive wildlife permit,~~ to have in his or her possession, except during the open season thereon, any unmounted game ~~except as provided in sections 37-460 and 37-562 allowed by the Game Law or the rules and regulations of the commission, adopted pursuant to such sections.~~

Sec. 27. Section 37-512, Reissue Revised Statutes of Nebraska, is amended to read:

37-512 Every express company and common carrier, their officers, agents, and servants, and every other person who (1) transfers or carries from one point to another within the state, (2) takes out of the state, or (3) receives, for the purpose of transferring from this state, any raw furs protected by the Game Law, except as permitted in this section, shall be guilty of a Class III misdemeanor. ~~It shall be lawful for any~~ Any express company, railroad, common carrier, or postmaster ~~to may receive~~ raw furs protected by the Game Law 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 commission, when such raw fur is accompanied by a tag furnished by the commission and document placed upon the package giving the name of the consignee, the number of his or her fur-harvesting permit, the date of expiration of the permit which must be on or after the date of shipment, and a description of the kind and number of each kind of raw fur in the shipment. A duplicate portion of such tag shall be filled out and sent to the secretary of the commission.

Sec. 28. Section 37-615, Reissue Revised Statutes of Nebraska, is amended to read:

37-615 It shall be unlawful for any person to take any species of wildlife protected by the Game Law while his or her permits are revoked. It shall be unlawful for any person to apply for or purchase a permit to hunt, fish, or harvest fur in Nebraska while his or her permits are revoked and while the privilege to purchase such permits is suspended. Any person who violates this section shall be guilty of a Class III misdemeanor and in addition shall be suspended from hunting, fishing, and fur harvesting or purchasing permits to hunt, fish, and harvest fur for a period of not less than two nor more than five years as the court directs. The court shall consider the number and severity of the violations of the Game Law in determining the length of the suspension.

~~Any person whose privilege or permit to hunt, fish, or harvest fur in another state has been suspended or revoked as a result of a conviction shall not be eligible to obtain a permit to hunt, fish, or harvest fur if the conviction would constitute grounds for suspension or revocation under sections 37-614 to 37-617 until the period of suspension or revocation in the other state has expired.~~

Sec. 29. Section 37-618, Reissue Revised Statutes of Nebraska, is amended to read:

37-618 Any (1) Except as otherwise provided in subsection (3) of this section, any person whose privilege or permit to hunt, fish, or harvest fur has been suspended or revoked in any jurisdiction within the United States or Canada shall be prohibited from obtaining a permit for such activity in this state during the period of suspension or revocation in the prosecuting jurisdiction if the offense for which the privilege or permit is suspended or revoked is an offense under the Game Law or would constitute grounds for suspension or revocation under sections 37-614 to 37-617.

(2) If such person has previously obtained a permit under the Game Law for such activity, the permit shall become invalid and shall be suspended for the same period as determined in the prosecuting jurisdiction. The person shall immediately return the permit to the commission. No person shall possess a permit which has been suspended or revoked under this section except as otherwise provided in subsection (3) of this section.

(3) The commission may adopt and promulgate rules and regulations to

create a process to (a) review the suspension or revocation of a privilege or permit to hunt, fish, or harvest fur imposed by any jurisdiction other than Nebraska to determine if the offense for which the privilege or permit is suspended or revoked is an offense under the Game Law or would constitute grounds for suspension or revocation under sections 37-614 to 37-617 and (b) provide for a hearing, if necessary, to confirm the suspension or revocation in Nebraska or reinstate the privilege or affirm the eligibility of the person to purchase a permit in Nebraska. The process may include an application for the review and a procedure for screening applications to determine if the hearing before the commission is necessary or appropriate.

(4) Any person who violates the provisions of this section shall be guilty of a Class I misdemeanor.

Sec. 30. Original sections 37-238, 37-405, 37-420, 37-421, 37-421.01, 37-427, 37-461, 37-464, 37-483, 37-484, 37-485, 37-487, 37-488, 37-489, 37-490, 37-492, 37-497, 37-498, 37-4,103, 37-503, 37-512, 37-615, and 37-618, Reissue Revised Statutes of Nebraska, and sections 37-327, 37-407, 37-411, 37-426, 37-431, and 37-450, Revised Statutes Cumulative Supplement, 2010, are repealed.

Sec. 31. The following sections are outright repealed: Sections 37-460, 37-499, 37-4,100, 37-4,101, 37-4,102, and 37-562, Reissue Revised Statutes of Nebraska.