

CHAPTER 29

FISH AND GAME

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29.01 General definitions. The following terms, wherever used in this chapter, shall be construed to apply as follows:

(1) **WILD ANIMAL.** "Wild animal" means any mammal, bird, fish, or other creature of a wild nature endowed with sensation and the power of voluntary motion.

(2) **CARCASS.** "Carcass" means the dead body of any wild animal to which it refers, including the head, hair, skin, plumage, skeleton, or any other part thereof.

(3) **GAME; GAME FISH; ROUGH FISH; GAME ANIMALS; FUR-BEARING ANIMALS; GAME BIRDS; NONGAME SPECIES.** (a) *Game.* "Game" includes all varieties of wild mammals or birds; "game fish" includes all varieties of fish except rough fish and minnows; "rough fish" includes dace, suckers, carp, goldfish, redhorse, freshwater drum, burbot, bowfin, garfish, buffalo fish, lamprey, alewife, gizzard shad, smelt, goldeye, mooneye, carpsucker and quill back, in all waters and chub in inland waters only; "minnows" includes suckers, mud minnows, madtom, stonecat, killifish, stickleback, trout-perch, darters, sculpin and all minnow family cyprinids except goldfish and carp.

(b) *Game animals.* "Game animals" includes deer, moose, elk, bear, rabbits, squirrels, fox and raccoon.

(c) *Fur bearing animals.* "Fur bearing animals" includes otter, beaver, mink, muskrat, marten, fisher, skunk, raccoon, fox, weasel, opossum, badger, wolf, coyote, wildcat and lynx.

(d) *Game birds.* "Game birds" includes the following aquatic birds: Wild geese, brant, wild ducks, wild swan, rails, coots, gallinules, jack-snipe, woodcock, plovers and sandpipers; the following upland birds: ruffed grouse (partridge), pinnated grouse (prairie chicken), sharp-tailed grouse, pheasants, Hungarian partridge, Chukar partridge, bobwhite, quail, California quail and wild turkey.

(e) *Nongame species.* "Nongame species" means any species of wild animal not classified as a game fish, game animal, game bird or fur-bearing animal.

(4) **WATERS CLASSIFIED.** All waters within the jurisdiction of the state are classified as follows: Lakes Superior and Michigan, Green Bay, Sturgeon Bay, Sawyer's harbor, and the Fox river from its mouth up to the dam at De Pere are "outlying waters". All other waters, including the bays, bayous and sloughs of the Mississippi river bottoms, are "inland waters".

(5) **HUNTING.** "Hunt" or "hunting" includes shooting, shooting at, pursuing, taking, catching, or killing of any wild animal or animals.

(6) **FISHING.** "Fishing" includes taking, capturing, killing, or fishing for fish of any variety in any manner. When the word "fish" is used as a verb, it shall have the same meaning as the word "fishing" as defined herein.

(7) **TRAPPING.** "Trapping" includes the taking, or the attempting to take, of any wild animal by means of setting or operating any device, mechanism or contraption that is designed, built or made to close upon, hold fast, or otherwise capture a wild animal or animals. When the word "trap" is used as a verb, it shall have the same meaning as the word "trapping" as defined herein.

(8) **RESIDENT.** "Resident" means any person who has maintained a place of permanent abode in this state for a period of 30 days immediately preceding an application for license.

History: 1971 c. 129, 266; 1975 c. 39, 199; 1977 c. 370, 447.

Cross Reference: See definitions in 24.01.

29.015 Bays bounded. (1) Whenever the hereinafter named bays and harbors are mentioned in this chapter, the following description for the same shall apply:

(a) That body of water known as Moonlight bay lying north and west of a line commencing at the most northeast point in section 15, township 30 north, range 28 east, and running in a straight line northeasterly to the most southerly point in section 14, same township and range.

(b) That body of water known as Jackson harbor lying south and west of a line commencing at the most northerly point in section 27, township 34 north, range 30 east, and running in a straight line northwesterly to the most easterly point in the northeast quarter of section 28, same township and range.

(c) That body of water known as Bailey's harbor lying north of a line commencing at the most southerly point in section 21, township 30 north, range 28 east, and running in a straight line westerly to the south line of section 20, same township and range.

(d) That body of water known as Washington harbor lying south of a line commencing at the water's edge on the north line of section 26, township 34 north, range 29 east, and running in a straight line easterly to the water's edge on the north line of section 25, same township and range.

(e) That body of water known as Eagle harbor lying south and east of a line drawn from the most northeast point in section 9, township 31 north, range 27 east, easterly to the water's edge on the north line of section 12, same township and range.

(f) That body of water known as Egg harbor lying south of a line commencing at the most northeast point in section 26, township 30 north, range 26 east, and running in a straight line east to the north line of section 25, same township and range.

(g) That body of water known as North bay lying north of a line commencing at the most northeast point in section 35, township 31 north, range 28 east, and running in a straight line to the west line of section 25, same township and range.

(h) That body of water known as Fish Creek harbor lying south and east of a line commencing at the most northerly point in the southwest quarter of section 29, township 31 north, range 27 east, and running northeasterly in a straight line to the water's edge on north line of said section, township and range.

(i) That body of water known as Detroit harbor lying north of a line commencing at the most southerly point in section 14, township 33 north, range 29 east, and running in a straight line to the most southerly point in section 18, township 33 north, range 30 east.

(j) That body of water known as Sturgeon bay lying south and east of a line commencing at the most northerly point of section 23, township 28 north, range 25 east, and running in a northeasterly direction to the water's edge on north line of section 13, same township and range.

(k) That body of water known as Little Sturgeon bay lying south of a line commencing at the most northeast point in section 35, township 28 north, range 24 east, and running in a northeasterly direction to the most northerly point in section 36, same township and range.

(l) That body of water known as Rowley's bay lying north of a line commencing at the water's edge on south line of section 26, township 32 north, range 28 east, and running east to the most southerly point in section 32, same township and range.

(m) That body of water known as Riley's bay lying south of a line commencing at the most northerly point in section 36, township 28 north, range 24 east, and running in a northeasterly direction to the most northerly point in section 30, township 28 north, range 25 east.

(n) That body of water known as Allouez bay lying south of a line commencing at the most northerly point in section 29, township 49 north, range 13 west, and running due east in a straight line to the water's edge on north line of section 28, same township and range.

(o) All that body of water known as Superior bay lying south and east between Minnesota point and the main land of Douglas county

extending from a line drawn from the most southerly point in section 20, township 49 north, range 13 west, to the most northerly point in section 29, same township and range.

(p) All that body of water known as St. Louis bay lying between a line commencing at the most northerly point of section 10, township 49 north, range 14 west, running due north to the Minnesota boundary, and the north line of sections 20 and 21, running due west to the Minnesota boundary.

(q) All that body of water known as West Harbor and adjoining water in sections 2, 10 and 11, township 33 north, range 29 east, lying east of a line starting at the most northwesterly point of land in section 10 of township 33 north, range 29 east, and running in a northerly direction to the most northwesterly point of land in section 2, township 33 north, range 29 east.

29.02 Title to wild animals. (1) The legal title to, and the custody and protection of, all wild animals within this state is vested in the state for the purposes of regulating the enjoyment, use, disposition, and conservation thereof.

(2) The legal title to any such wild animal, or carcass or part thereof, taken or reduced to possession in violation of this chapter, remains in the state; and the title to any such wild animal, or carcass or part thereof, lawfully acquired, is subject to the condition that upon the violation of this chapter relating to the possession, use, giving, sale, barter, or transportation of such wild animal, or carcass or part thereof, by the holder of such title, the same shall revert, ipso facto, to the state. In either case, any such wild animal, or carcass or part thereof, may be seized forthwith, wherever found, by the department or its wardens.

(3) This section shall not permit seizure of nor prohibit possession or sale of lawfully obtained wild birds and animals which are mounted or in the process of being mounted for a private collection.

(4) Agents of the department may, after making reasonable efforts to notify the owner or occupant, enter upon private lands to retrieve, diagnose or otherwise determine if there are dead or diseased wild animals upon such lands, and take actions reasonably necessary to prevent the spread of contagious disease in such wild animals.

History: 1973 c. 214; 1975 c. 181.

29.03 Public nuisances. The following are declared public nuisances:

(1) Any unlicensed net of any kind, or other unlicensed device, trap, or contrivance for fishing; or any licensed net or other device, trap or contrivance for fishing set, placed, or found in any waters where the same is prohibited to be used, or in a manner prohibited by law.

(2) Any unlicensed set line, cable, rope, or line, with more than one fish line attached thereto; or any licensed set line set, placed, or found in any waters where the same is prohibited to be used, or in a manner prohibited by law; or any fish line left in the water unattended, whether having one or more hooks attached.

(2m) Any long tunnel pound net or similar entrapping net other than the legal fyke net, drop net, submarine trap net and the short tunnel pound net whenever found in outlying waters or on any vessel, dock, pier, wharf or in any building or vehicle on or adjacent to such waters. Any such contraband nets so found shall be deemed sufficient evidence of the use of such nets by the owner thereof.

(3) Any screen set in public waters to prevent the free passage of fish, or set in any stream which has been stocked by state authorities unless authorized by the department.

(4) Any building, inclosure, structure, or shelter placed, occupied, or used on the ice of any waters in violation of this chapter.

(5) Any unlicensed trap, snare, spring gun, set gun, net or other device or contrivance which might entrap, ensnare, or kill game; or any trap without a metal tag attached as required by law.

(6) Any boat, together with its machinery, sails, tackle and equipment, or any lamp, light, gun, pivot gun, swivel gun, or other firearm used in violation of this chapter; or any boat, floating raft, box, or blind set in open water and used in hunting game birds.

(7) Any decoys left in the water unattended.

(8) Any dog found running deer at any time, or used in violation of this chapter.

(9) Any ferret, rat, weasel, or guinea pig in possession or used while hunting.

(10) Any blind used in hunting waterfowl in violation of s. 29.27.

History: 1977 c. 443

29.04 Abandoned dams. (1) The department may remove or cause to be removed, in such manner as it deems fit, old and abandoned dams in streams in this state, upon giving 60 days' notice in writing to the owner thereof, if he can be found. If the owner of the dam is unknown or cannot, by due diligence, be found, the department shall publish a class 3 notice,

under ch. 985, in the county in which the dam is situated.

(2) Whenever the department determines that the conservation of any species or variety of wild animals will be promoted thereby, the department may maintain and repair any dam located wholly upon lands the title to which is in the state either as proprietor or in trust for the people after giving due consideration to fixing the level and regulating the flow of the public waters.

29.05 Police powers; searches; seizures.

(1) **WARRANTS, ARRESTS.** The department and its wardens may execute and serve warrants and processes issued under any law enumerated in s. 23.50 (1), 346.19, 346.94 (6) and (6m), 940.24, 941.20, 941.22 and 947.047 in the same manner as any constable may serve and execute such process; and may arrest, with or without a warrant, any person detected in the actual violation, or whom such officer has probable cause to believe guilty of a violation of any of the laws cited in this subsection, whether such violation is punishable by criminal penalties or civil forfeiture and may take such person before any court in the county where the offense was committed and make proper complaint. For the purpose of enforcing any of the laws cited in this subsection, any such officer may stop and board any boat and stop any automobile, snowmobile or other vehicle, if the officer reasonably suspects there is a violation of such sections.

(2) **INVESTIGATIONS.** Such officers shall, upon receiving notice or information of the violation of any laws cited in sub. (1), as soon as possible make a thorough investigation thereof, and cause proceedings to be instituted if the proofs at hand warrant it.

(3) **DRIVING WITHOUT HEADLIGHTS.** In the performance of their law enforcement duties under this chapter, duly authorized wardens may operate vehicles owned or leased by the department upon a highway, other than an interstate, a state trunk highway or any highway within the limits of any incorporated area, during hours of darkness without lighted headlamps, tail lamps or clearance lamps, contrary to s. 347.06, if such driving will aid in the accomplishment of a lawful arrest for violation of this chapter or rules promulgated under this chapter or in ascertaining whether a violation of this chapter or rules promulgated under this chapter has been or is about to be committed. The state shall be liable for any accidents or injuries caused by any warden operating a motor vehicle under this subsection.

(4) **OPENING PACKAGES.** The department and its wardens may examine and open any package in the possession of a common carrier which they have probable cause to believe contains contraband wild animals, or carcasses or parts thereof, or is falsely labeled in violation of this chapter; and every such common carrier, and every agent, servant, or employe thereof, shall permit any such officer to examine and open any such package. Any package so opened shall be restored to its original condition.

(5) **ACCESS TO STORAGE PLACES.** They shall be permitted by the owner or occupant of any cold storage warehouse or building used for the storage or retention of wild animals, or carcasses or parts thereof, to enter and examine said premises subject to ss. 66.122 and 66.123; and the owner or occupant, or the agent, servant, or employe of the owner, shall deliver to any such officer any wild animal, or carcass or part thereof, in his or her possession during the closed season therefor, whether taken within or without the state.

(6) **SEIZURE AND CONFISCATION OF GAME, OR GAME FISH.** They shall seize and confiscate in the name of the state any wild animal, or carcass or part thereof, caught, killed, taken, had in possession or under control, sold or transported in violation of this chapter; and any such officer may, with or without warrant, open, enter and examine all buildings, camps, vessels or boats in inland or outlying waters, wagons, automobiles or other vehicles, cars, stages, tents, suit cases, valises, packages, and other receptacles and places where the officer has probable cause to believe that wild animals, taken or held in violation of this chapter, are to be found.

(7) **SALE OF CONFISCATED PROPERTY.** They shall seize and hold subject to the order of the court for the county in which the alleged offense was committed, any apparatus, appliance, or any vehicle or device, declared by this chapter to be a public nuisance, which they have probable cause to believe is being used in violation of this chapter or ss. 346.94 (6) and (6m), 940.24, 941.20, 941.22 and 947.047, and if it is proven that the same is, or has been within 6 months previous to the seizure, used in violation of this chapter or ss. 346.94 (6) and (6m), 940.24, 941.20, 941.22 and 947.047, the same shall be confiscated if the court so directs in its order for judgment. Any seizure of perishable property made by the department or its wardens may be sold at the highest available price, and the proceeds of the sale turned into court to await disposition of the proceeds as the court directs. It is lawful for any conservation

warden or other ministerial officers charged with the enforcement of the laws dealing with the conservation of the natural resources of the state, to destroy any dog found running, worrying, or killing any deer, or destroying game birds, their eggs or nests, if they deem it advisable and necessary.

(8) **ENTIRE SHIPMENT AFFECTED.** Confiscation of any part of a shipment under this section shall include the entire shipment.

(9) **EXEMPTION FROM LIABILITY.** Members of the natural resources board, and each warden, in the performance of official duties, shall be exempt from any and all liability to any person for acts done or permitted or property destroyed by authority of law. In any action brought against any board member or warden involving any official action the district attorney of the county in which the action is commenced shall represent such board member or warden. No taxable costs or attorney fees shall be allowed to either party in said action.

History: 1971 c. 40, 42, 164; 1971 c. 211 s. 126; 1971 c. 277; 1973 c. 198; 1975 c. 365; 1977 c. 425, 449.

A game warden who kills a dog which he believes is wounding or worrying a domestic animal is not exempt from liability under 29.05 (9), Stats. 1967, under all circumstances. *Munyon v. Moe*, 46 W (2d) 629, 176 NW (2d) 324.

29.06 Sale of confiscated game and apparatus. (1)

All confiscated wild animals, or carcasses or parts thereof, and all confiscated apparatus, appliances or devices shall, if not destroyed as authorized by law, be sold at the highest price obtainable, by the department or its wardens, or by an agent on commission under the written authority and supervision of the department. The net proceeds of such sales, after deducting the expense of seizure and sale and any such commissions, shall be promptly remitted by the warden by whom or under whose authority and supervision the sales are made, to the department; the remittance to be accompanied by a complete and certified report of such sales, supported by proper vouchers covering all deductions made for expenses and commissions; to be filed with the department. Of the remittance from such sales of confiscated apparatus, appliances or devices, 18% shall be paid into the conservation fund to reimburse it for expenses incurred in seizure and sale, and the remaining 82% shall be paid into the common school fund. In the case of the proceeds from the sale of a confiscated motor vehicle if the holder of a security interest perfected by filing with such motor vehicle as security, satisfies (and the burden of proof shall be upon the holder of a security interest) the court, or after judgment of confiscation, the department, that the violation that led to such confiscation was not with his or her knowledge,

consent or connivance or with that of some person employed or trusted by the holder of a security interest, there shall also be deducted the amount due under the security agreement from the proceeds of such sale and the amount due shall be paid to the one entitled; in case a sufficient amount does not remain for such purpose after the other deductions then the amount remaining shall be paid. The department shall make a reasonable effort within 10 days after seizure to ascertain if a security interest in the seized motor vehicle exists, and shall within 10 days after obtaining actual or constructive notice of such security interest give the secured party notice of the time and place when there is to be any proceeding before the court or the judge pertaining to such confiscation and shall also give such secured party at least 10 days' notice of the time and place of sale. Constructive notice shall be limited to security interests perfected by filing. In all such cases the time of sale of the confiscated motor vehicle shall be within 20 days after judgment of confiscation provided in s. 29.05 (7). This subsection shall not apply to a deer killed, or so injured that it must be killed, by a collision with a motor vehicle on a highway. Such deer carcass shall be released free of charge to the motor vehicle operator under s. 29.40 (5) by the department or its agent, but shall be retained by the department or its agent if the motor vehicle operator declines to accept the carcass.

(2) On any such sales of wild animals, or carcasses or parts thereof, the warden or agent selling them shall issue to each purchaser a certificate, on forms to be prepared and furnished by the department, covering such sales. The animals, or carcasses or parts thereof, so purchased shall be consumed or otherwise disposed of by the purchaser within a period to be set by the department, but shall not be resold, bartered, or exchanged, in whole or in part, to any other person, except as provided in sub. (3).

(3) Confiscated fish or game sold to the keeper, manager, or steward of any restaurant, club, hotel, or boarding house may be served to the guests thereof; but in such case the certificate covering the purchase shall be hung in public view in the place where the fish or game is served, and such fish or game shall at the time of sale be tagged by the warden or agent selling it, such tag to show the date of sale and be returned to said warden or agent within 5 days thereafter.

History: 1975 c. 97, 199.

29.07 Assistance of police officers. All sheriffs, deputy sheriffs, coroners, and other

police officers are ex officio deputy conservation wardens, and shall assist the department and its wardens in the enforcement of this chapter whenever notice of a violation thereof is given to either of them by the department or its wardens.

29.08 Interstate comity. (1) Whenever any other state confers upon the officers of this state reciprocal powers, any officer of such other state, who is by the laws of that state authorized or directed to enforce the laws of that state relating to the protection of wild animals, is hereby designated an agent of that state within this state. It shall be lawful for said officer to follow any wild animal, or carcass or part thereof unlawfully shipped or taken from his state into this state, seize and convey the same back to his own state; and so far as concerns any such wild animal, or carcass or part thereof, the laws of the state from which the same was brought into this state are hereby adopted as the laws of this state. Transportation companies shall deliver to such officer, upon submission of proper proof of his official capacity, any wild animal, or carcass or part thereof, so demanded or seized by him. Said officer may dispose of any such wild animal, or carcass or part thereof, within this state, in accordance with the laws of the state from which the same was taken or shipped, under the supervision of the department or its wardens. Expenses for such assistance shall be a lien upon such wild animal or carcass or part thereof, or the proceeds thereof.

(2) Except as provided in sub. (1), the department or its wardens shall seize, hold and dispose, according to the laws of this state, of any wild animal, or carcass or part thereof, brought or shipped into or through this state, or attempted to be carried through this state, in violation of the laws of any other state.

(3) The state game warden of every other state, and his deputies and all other officers therein charged with the enforcement of the laws relating to wild animals are hereby designated agents of this state for the taking possession, seizing, holding and disposing, within such state, of any wild animal, or carcass or part thereof, protected by the laws of this state.

(4) Whenever and so long as any other state confers upon the officers of this state reciprocal powers, the department may appoint persons who shall have been appointed game wardens or deputy game wardens of such other state to act as and have all the powers of wardens of this state, but without compensation from this state.

History: 1971 c. 164.

29.085 Department to regulate hunting and fishing in interstate waters. The department may regulate hunting and fishing on and in all interstate boundary waters, and outlying waters specified in s. 29.01 (4). Any act of the department in so regulating the hunting and fishing on and in such interstate boundary waters and outlying waters shall be valid, all other provisions of the statutes notwithstanding, provided such powers shall be exercised pursuant to and in accordance with ss. 23.09 (2) and 29.174.

29.09 Hunting, trapping and fishing licenses. (1) **HUNTING, TRAPPING OR FISHING WITHOUT A LICENSE PROHIBITED.** Except as expressly provided, no person shall: (a) hunt any wild animal, or (b) trap any game, or (c) take, catch or kill fish or fish for fish in inland water of this state unless a license therefor has been duly issued to him which shall be carried with him at all times while hunting, trapping or fishing as the case may be and which shall be exhibited to the department or its wardens on demand. Such licenses shall be issued to and obtained by only natural persons lawfully entitled thereto, and in case of resident hunting, trapping or fishing licenses, shall be issued only to persons who present to the county clerk or issuing agent definite proof of his identity, and that he is a legal resident of this state. No more than one of the same series shall be issued to the same person in any year. No person shall transfer his license or tag or permit the use thereof by any other persons, nor shall any person while hunting, trapping or fishing use or carry any license, tag or badge, issued to another. No hunting, fishing or trapping license, or tag shall be obtained by any person for another. No hunting license shall be issued to any person under the age of 12 years. Any person between the ages of 12 and 16 years may hunt only when accompanied by a parent or guardian, or by a person over 18 years of age designated by the parent or guardian. Indians hunting, fishing or trapping off Indian reservation lands are subject to this chapter.

(2) **FORM OF APPLICATION.** The application for such license shall bear the applicant's signature and shall state the residence and post-office address of the applicant, a description of his person, that he has complied with all of the laws regulating the issuance and purchase of the license applied for, and such other facts, showing him to be entitled to the license for which he applies, as may be required by the department, and no license shall be issued until the foregoing provisions have been complied with by the applicant. Verified application

shall be required for fur dealer's license and wholesale fish markets license.

(3) **FORM OF LICENSE.** Each license shall state for what year the same is issued and the date of expiration, and except as otherwise provided shall be effective only from September 1 until the next succeeding August 31, subject to the conditions, limitations and restrictions prescribed in this chapter. Resident hook and line fishing licenses shall be effective from the date of issuance to the succeeding December 31. Each license issued shall further state the name and residence of the licensee, a description of his person, and such other matter as may be determined by the department; shall bear upon its face a true signature of the licensee and the date of issuance; and shall be signed by the issuing agent. All licenses shall be issued in the English language with ink only.

(4) **DUPLICATES.** Whenever any license is lost the person to whom the license was issued may apply to the department for a duplicate license, submitting an affidavit proving loss. The department shall make an inquiry and investigation as it deems necessary. When satisfied that the facts are as stated in the affidavit the department may issue a duplicate license to the applicant. The fees for duplicate licenses are as follows: for any license authorizing the hunting of deer \$5 or if the original cost of the license was less than \$5 an amount not to exceed the original cost of the license; for any other license \$1. Back tags and other tags issued with a license are parts of the license and loss of any part of a license is deemed to be loss of the entire license. Upon applying for a duplicate license the applicant shall surrender all parts of the original license remaining in his or her possession to the department.

(5) **SUPPLY OF BLANKS.** The department shall prepare, procure the printing of, and supply all necessary blanks for such licenses and applications. The licenses shall be numbered consecutively, at the time of printing, in a separate series for each kind of license; and each license blank shall be provided with a corresponding stub numbered with the serial number of the license. Each requisition for the printing of such license blanks shall specify the serial numbers thereof.

(6) **LICENSES ISSUED BY COUNTY CLERK.** Of each license issued by a county clerk he shall retain the stub for record in his office. Such stubs shall be filed in alphabetical order by the county clerk immediately after licenses are issued. The department or its wardens may at any time examine such records.

(7) **RETURN OF FEES BY COUNTY CLERK.** The statutory license fees collected by the county

clerk shall be remitted to the department by the 20th of each month, with a report of the number of licenses issued by the clerk and his or her deputies during the preceding month and the amount of money remitted. If the clerk does not remit, the clerk shall forfeit not more than \$100. All unused license blanks shall be returned by the county clerk to the department at the close of the year for which supplied. The department shall determine the disposition of license stubs by county clerks at the close of the year for which they are issued.

(7m) COUNTY CLERK LICENSE ACCOUNTS.

(a) Each county clerk, to whom all or part of the compensation enumerated in sub. (10) is reserved in accordance with s. 59.15 (1), shall establish in a bank a checking account to be used exclusively for the deposit of collections from license sales and such other collections as hereinafter indicated. Such collections shall be deposited by the county clerk in the account within one week after receipt thereof. Payment to the department of the monthly remittance specified in sub. (7) shall be made by check drawn against such account. The account shall be subject to ch. 34 and s. 66.042 (6). Other collections made by the county clerk and due the county may also be deposited in this checking account. When the account includes other collections than licenses, the county clerk's record of the balance in the account must show separately the exact amounts of license and other collections.

(b) In case a county retains all compensation allowed under sub. (10) for the issuance of conservation licenses and tags and the county board requires the county clerk to deposit license collections with the county treasurer, the county clerk shall deposit such license collections with the county treasurer within one week after receipt thereof. Payment to the department of the monthly remittance specified in sub. (7) shall then be made by the county treasurer upon written order of the county clerk. If the county board does not require license collections to be deposited with the county treasurer, the county clerk shall make deposits and remittances of such license collections, pursuant to par. (a).

(c) The department shall prescribe a minimum standard for accounting records which shall be maintained by each county clerk for license transactions.

(8) RECORD OF LICENSES ISSUED. A complete record of all licenses issued shall be kept by the department, which shall also be accountable for all unused license blanks.

(9) DISABLED PERSONS. After proper application and presentation of a current hunting

license duly issued to the applicant, the secretary may, after due investigation and without cost, grant a special permit to any person who is unable to walk and requires a wheel chair or prosthetic appliance for mobility, to shoot or hunt from a standing automobile or to hunt any deer, whether a buck or a doe, during the regular deer season, notwithstanding any other provision of this chapter to the contrary. Regardless of deer hunting party permit limits, any holder of a permit under this section may obtain a party permit deer tag without cost upon application in any area for which a party deer season has been established.

(10) ADDITIONAL FEE REQUIRED. County clerks and their deputies and other persons authorized to issue any license prescribed by this chapter shall collect, in addition to the statutory fee, 25 cents for each single resident license and 50 cents for each combination license (including sportsman) and each single nonresident license so issued to compensate for services in issuing such license, except that all moneys collected by any employe of the department under this subsection shall be remitted by him to the department together with the statutory license fee. Deputies appointed by county clerks, other than county employes, shall be entitled to retain 10 cents of the 25-cent fee and 25 cents of the 50-cent fee. Deputies appointed by the department, other than state employes, shall be entitled to retain 10 cents of the 25-cent fee and 25 cents of the 50-cent fee. The additional fee provided in this subsection shall be added to the statutory license fee provided in this chapter and the total shall appear as one amount on the printed license form.

(11) BOND REQUIRED. The department shall provide and pay the cost of a blanket surety bond covering the several county clerks performing duties under this chapter. The bond shall be conditioned, among other things, upon the faithful performance of such duties according to law and shall provide for the payment to the parties entitled to the same, such damages, not exceeding the amount provided in the bond, as may be suffered by them in consequence of a failure on the part of any such clerk so to discharge such duties. The amount of the bond shall be determined by the department, but shall not exceed \$100,000 for each county clerk covered.

(12) ARMED FORCES; STUDENTS. (a) Fishing licenses, small game hunting licenses and deer hunting licenses shall be issued at resident fees by the department and by the county clerks to any student or to any member of the armed forces of the United States applying therefor,

who exhibits proof that he is in active service with such armed forces and that he is stationed in Wisconsin or that he is a registered full-time undergraduate student in residence of a college or university, public or private, located in this state and offering a bachelor's degree or is a citizen of a foreign country temporarily residing in this state while attending a Wisconsin high school or an agricultural short course at the university of Wisconsin.

(b) Fishing licenses and small game hunting licenses shall be issued without charge by the department and by the county clerks to any member of the armed forces of the United States applying therefor who exhibits proof that he is in active service with such armed forces and that he is a Wisconsin resident on furlough or leave.

History: 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90; 1975 c. 365; 1977 c. 69

Treaty of 1854 construed to allow Chippewa Indians fishing rights in Lake Superior by methods reasonably conforming to aboriginal methods. *State v. Gurnoe*, 53 W (2d) 390, 192 NW (2d) 892.

29.095 Senior citizen recreation card.

(1) The department and the county clerk of each county shall issue a senior citizen recreation card to any resident 65 years of age or older who presents satisfactory proof of age and residence and upon payment of \$7.50. The senior citizen recreation card shall be nonexpiring and shall be effective as long as the person is a resident of this state. The department shall prescribe the form of the recreation card.

(2) The recreation card shall entitle the holder to exercise all of the combined rights and privileges conferred by a resident small game hunting license and resident fishing license, subject to all duties, conditions, limitations and restrictions prescribed under ch. 29 and by department order. The card shall permit any vehicle having a card holder as an occupant to enter any state forest, state park or roadside park under s. 27.01 (2r) without having an admission sticker affixed to it. No fee may be charged for the vehicle to gain entrance to the state forest, state park or roadside park.

(3) Except as provided in this section, possession of a recreation card shall not entitle the holder to obtain any other privileges or services for free if the privileges or services may be obtained only through payment of a fee.

(4) No additional fee, as provided in s. 29.09 (10) may be collected by the issuer of the recreation card. The department may issue replacement cards upon proof of loss and payment of the actual cost of issuing a replacement card in an amount not to exceed \$1.

(5) The department shall allocate the proceeds from recreation card sales among the various affected programs at its discretion.

History: 1977 c. 424.

NOTE: Section 29.145 (1a) allows a resident over 65 to receive a permanent fishing license (only) without cost.

29.10 Resident small game hunting licenses, fees; public hunting and fishing grounds.

(1) Resident small game hunting licenses shall be issued subject to s. 29.09, by designated permanent civil service employees of the department and by the county clerks upon blanks supplied by the department, to residents duly applying therefor. The fee for each license is \$5. Such license does not permit the hunting of bear and deer.

(2) The department shall spend for the acquisition, leasing, development and maintenance of public hunting and fishing grounds, and the adjustment and payment of damages arising from the operation of the same, not less than one-fourth of the net cash receipts derived from the sale of resident small game hunting licenses.

History: 1973 c. 90 s. 538; 1973 c. 315.

29.102 Waterfowl hunting stamp.

(1) Except as otherwise provided, no person may hunt waterfowl unless he or she has a waterfowl hunting stamp affixed by the stamp's adhesive to the hunting license permitting the hunting of small game. The waterfowl hunting stamp shall be issued by the department and its agents and by county clerks. The fee for the waterfowl hunting stamp shall be \$3. The waterfowl stamp shall be designed and produced by the department and shall expire annually on the same date each year that all hunting licenses expire. Any person who is exempt from payment or charge for a small game hunting license is also exempt from the fee under this subsection. Any person who is under 16 years of age is exempt from the requirements of this subsection.

(2) (a) The department shall expend \$2 of the \$3 fee received from the sale of a waterfowl stamp for developing, managing, preserving, restoring and maintaining wetland habitat and for producing waterfowl and ecologically related species of wildlife.

(b) The department shall expend \$1 of the \$3 fee received from the sale of a waterfowl stamp for the development of waterfowl propagation areas within Canada which will provide waterfowl for this state and the Mississippi flyway. Money for the development of waterfowl propagation areas shall be provided only to nonprofit organizations. Before providing

any money the department shall obtain evidence that the proposed waterfowl propagation project is acceptable to the appropriate provincial and federal governmental agencies of Canada.

(3) Collection and remittance procedures applicable to hunting license fees under s. 29.09 apply to waterfowl stamp fees under this section except that the additional fee collected under s. 29.09 (10) shall be 25 cents for each waterfowl hunting stamp whether the waterfowl hunting stamp is purchased by a resident or a nonresident hunter. The additional fee provided in this subsection and the statutory fee provided under sub. (1) shall appear as one amount on the printed license form.

History: 1977 c. 376

29.104 Resident archer hunting license; fees. (1) Resident archer hunting licenses shall be issued subject to s. 29.09 by designated permanent civil service employees of the department or by the county clerks, on blanks furnished by the department, to any resident applying therefor. The fee for each such license issued to a resident 18 years of age or under is \$3 and to a resident over 18 years of age is \$6.

(2) Such license shall be accompanied by a deer tag and a back tag numbered to correspond with the license number and to be supplied without additional fee.

(3) Such licenses authorize the hunting of all game with bow and arrow only, during the open seasons for hunting such game with bow and arrow established by the department.

(4) (a) After proper application and presentation of a current resident archer hunting license duly issued to the applicant, the secretary may grant to any person who is established by medical evidence, verified by a written statement from a licensed physician, to be unable to operate a manually pulled bow because of a permanent physical disability a special permit to hunt with a crossbow meeting the specifications of par. (b).

(b) Crossbows used in hunting under this subsection shall meet all of the following specifications:

1. Shall be fired from the shoulder;
2. Shall deliver at least 42 ft.-lbs. of energy at a distance of 10 feet;
3. Shall have a stock of not less than 30 continuing inches in length;
4. Shall have a working safety; and
5. Shall be used with arrows or bolts of not less than 10 inches in length with a broadhead.

History: 1973 c. 90 s. 538; 1977 c. 232

29.105 Resident deer hunting license fees. (1) Resident deer hunting licenses shall be issued subject to s. 29.09 by designated permanent civil service employees of the department or by the county clerks, on blanks furnished by the department, to any resident applying therefor. The fee for each license is \$7. Such licenses authorize the hunting of deer with firearms only.

(2) Such license shall be accompanied by a deer tag and a back tag numbered to correspond with the license number and to be supplied without additional fee.

(3) Duly issued resident deer hunting licenses shall also include the hunting of bear during the periods when the open seasons for hunting deer and bear with firearms are concurrent.

(5) Deer hunting licenses shall be issued either before or after the opening of the season at resident fees to any member of the armed forces of the United States applying therefor who exhibits proof that he is in active service with such armed forces and that he is stationed in Wisconsin or that he is a Wisconsin resident on furlough or leave.

History: 1973 c. 90 s. 538.

29.106 Deer hunting by practitioners of Winnebago religion. (1) Persons who are enrolled members of the Winnebago Indian tribe and residents of this state and who practice the traditional Winnebago religion may hunt deer during daylight hours for the members' use in religious ceremonies without obtaining licenses under this chapter. Each hunting party shall be designated by the respective clan. Each clan leader shall obtain permission for deer hunting under this section from the department not less than 24 hours prior to each hunt.

(2) The department shall promulgate rules necessary to control the conditions and location under which hunting under this section may take place. The department may deny permission for hunting under this section when it determines that such a denial is necessary to effectively manage the deer population. The number of deer taken by all of the Winnebago clans for religious purposes during any calendar year shall be established by the department, by rule, when necessary to effectively manage the deer population. Hunting privileges under this section may not be exercised during the regular open season for deer.

(3) Nothing in this section may be construed to eliminate any requirement that a landowner's permission must be obtained prior to hunting on his or her land.

History: 1977 c. 242

29.107 Deer hunting party permits. Deer hunting party permits may be issued by the department, subject to s. 29.09, to deer hunting parties of 4 or more persons, as designated by the department, all duly applying therefor each of whom is in possession of a valid deer hunting license of current issue. The fee for each permit is \$5 and shall be paid at the time the application is made. The issuance of permits, the areas in which they are effective and the minimum number of persons comprising a deer hunting party in any area is discretionary with the department. The department may limit the number of deer hunting party permits in any area. If the number of permit applications for an area exceeds the number of permits authorized for the area, the department shall conduct a drawing to determine who shall receive a permit that year. The department shall give first preference for the 1976 season and such following seasons in drawings to residents who applied for but were not issued permits in the preceding year, and second preference to all other residents. Any resident who falsely represents on an application for a deer hunting party permit that the resident was not issued a permit in the preceding year shall forfeit \$50 and suffer the revocation of the deer hunting license for the current year. Permits shall be issued only in those years and for such seasons that the department finds that the population of deer is such that additional harvest of deer is reasonably necessary to properly manage the deer herd in the state in balance with the available deer range and natural food supply. Such findings shall be made by the department as rules pursuant to s. 29.174 and subject to ch. 227.

History: 1975 c. 89, 199.

29.109 Resident bear hunting licenses.

(1) Resident bear hunting licenses shall be issued subject to s. 29.09 by designated permanent civil service employes of the department or by the county clerks, on blanks furnished by the department, to any resident applying therefor. The fee for each license is \$7. Such licenses authorize the hunting of bear with firearms only. Except as provided in sub. (2), no such license may be issued on or after the opening date of the bear season.

(2) Bear hunting licenses shall be issued either before or after the opening of the season at resident fees to any member of the U.S. armed forces applying therefor who exhibits proof that he is in active service with such armed forces and:

(a) Is stationed in Wisconsin; or

(b) Is a Wisconsin resident on furlough or leave.

History: 1973 c. 315; 1975 c. 360.

29.12 Nonresident hunting licenses. (1)

Nonresident hunting licenses shall be either general, deer and bear, small game or archer (bow and arrow) hunting, and shall be issued by the department or by the county clerk, subject to s. 29.09, to persons duly applying therefor who are not residents of this state. The fee for each general license is \$100, for each deer and bear license \$70, for each small game license \$50 and for each archer hunting license \$25.

(2) Each general license shall confer upon the licensee the combined rights and privileges conferred by a nonresident deer and bear license and a nonresident small game license.

(2m) Each deer and bear license shall extend to the hunting of deer and bear with firearm only.

(3) Each small game license shall extend to the hunting of wild animals during the open season except deer and bear.

(3a) Each archer hunting license shall extend to the hunting of all game with bow and arrow only. Hunting with a crossbow is prohibited.

(5) Each nonresident general, deer and bear and archer hunting license shall be accompanied by a deer tag and a back tag numbered to correspond with the license.

(6) No general license shall be issued to or obtained by the holder of a deer and bear license and no deer and bear license shall be issued to or obtained by the holder of a general license.

(7) No nonresident general or deer and bear license valid for the hunting of bear may be issued after the start of the bear hunting season.

History: 1973 c. 90 s. 538; 1975 c. 322, 360.

29.123 Disabled veterans, Great Lakes Naval Hospital.

Notwithstanding any other statute, any disabled veteran who is a patient at the Great Lakes Naval Hospital, Great Lakes, Illinois, may hunt pheasant in this state in Columbia county on any one day in November in each year, the day to be specified by the administrator of the hospital to the department, without obtaining a resident or nonresident hunting license under this chapter.

History: 1971 c. 127; 1973 c. 243 s. 81.

29.125 Reports of hunters. Each person to whom a hunting or trapping license has been issued under this chapter shall, when requested to do so by the department, report to the

department, on forms furnished by it, the number of his license, the number and kind of each animal taken by the licensee and such other information as the department requires.

29.13 Trapping licenses. (1) Trapping licenses, which authorize the use of traps for trapping fur-bearing animals, shall be issued by the department, and by the county clerks of the several counties on blanks supplied by the department, subject to s. 29.09, to residents duly applying therefor. The fee for each such license is \$4. If a trapper employs any person in trapping, a license is required for each person so employed. Each trap used under a trapping license shall be tagged with a metal tag stamped with the name and address of the owner. All untagged traps shall be seized and confiscated, and the owner or person using or attending such untagged traps shall be punished as provided in s. 29.99 (4) and (10).

(2) All shipments of hides must be marked showing the number and kinds of hides in the package, the name and address of the shipper, and the number of his trapping license.

(3) On or before June first of each year, such licensee shall report to the department, by affidavit, on blanks furnished by the department, the number of his license, the number and value of each variety of animals taken during the previous 12 months ending May first, and such other information as may be required on the blanks furnished.

(5) No person shall molest or appropriate any traps, or take or appropriate the animal or contents of any trap, when such trap shall have been lawfully set out and shall be duly tagged in compliance with this section.

History: 1973 c. 90; 1975 c. 365 s. 62.

29.134 Fur dealers regulated. (1) For the purpose of carrying out this section the following definitions for the expressions used are:

(a) "Raw fur" means the undressed skins or pelts of any fur-bearing animal.

(b) "Dressed fur" means the dressed or tanned skins of any fur-bearing animal, but does not include fur in the manufactured article.

(c) "Resident fur dealer, Class A" means persons having an established post or place of business in the state where they carry on the business of buying, bartering, trading and otherwise obtaining raw or dressed furs, to the amount of \$2,000 or more each year.

(d) "Resident fur dealer, Class B" means persons having an established post or place of business in the state where they carry on the business of buying, bartering, trading and

otherwise obtaining raw or dressed furs, to the amount of less than \$2,000 each year.

(f) "Fur dresser or dyer" means a person engaged in the business of dressing, dyeing, tanning and otherwise preparing furs to be made into manufactured articles.

(g) "Itinerant fur buyers" means persons other than resident fur dealers who engage in the business of buying, bartering, trading or otherwise obtaining raw furs from trappers or from fur buyers or fur dealers in retail lots for purposes of resale, except those buying furs at a nationally advertised public auction conducted by a regularly licensed fur auctioneer.

(h) "Fur auctioneer" means a person duly licensed to sell furs of wild-fur-bearing animals of this or other states or foreign countries. The department or its representatives may sell confiscated or other furs in its possession by auction or otherwise.

(2) No person shall engage in the business of buying, bartering, bargaining, trading or otherwise obtaining raw furs until they shall have first secured a license therefor issued under this section.

(3) Licenses shall be issued by the department upon application. The form of application and license shall be prescribed by the department.

(4) The fees for such licenses shall be as follows: Resident fur dealer, Class A, \$25; resident fur dealer, Class B, \$10; fur dresser or dyer, \$25; itinerant fur buyer, \$200; fur auctioneer, \$250.

(5) Persons who have not had a place of business in the state for at least one year immediately preceding the date of application for such license, shall be issued itinerant fur buyers' licenses only.

(6) Each license shall bear upon its face the date of issuance, and all licenses shall expire on September 30 following such date. Every such license shall be shown to the department or its wardens upon request.

(6m) (a) Every person licensed under this section shall keep a correct and complete book record in the English language of all transactions in the buying, selling, dressing, dyeing or tanning of raw furs carried on by him. This record shall show the name and post-office address of each person from whom furs were purchased and to whom sold, together with the date of receipt and shipment, and a detailed account as to the number and kinds of raw furs in each shipment received or sold. This record shall be open to the inspection of the department and its agents and wardens at all reasonable hours. The records shall be kept intact for a period of 2 years after the expiration of any

license issued under this section, as to all transactions carried on while such license was effective.

(b) Not less than 10 days before conducting a fur auction the fur auctioneer shall file with the department evidence of national advertising showing the date and place of such auction.

(c) Within 10 days after conducting any fur auction the fur auctioneer shall file with the department on forms furnished by it a report of such auction containing the date and place of the auction, the names and addresses of all persons buying furs taken from wild fur-bearing animals, the quantities and kinds of such furs bought, and the amounts paid for such furs by each buyer.

(7) All packages of raw furs shipped or transported by any person shall have plainly marked on the outside of the package or shipment the kinds and number of furs therein, the license number, and the name of the consignor and the consignee.

(8) No person on his behalf or as an agent for a person, firm or corporation, express company or other common carrier, shall at any time or in any manner receive for shipment or cause to be received for shipment out of or in the state, any package of fur or furs unless the same is plainly marked on the outside of the package as to the number and kinds of fur contained therein, the license number, and the address of the consignor and consignee.

(9) All beaver and otter skins shipped into this state from Canada and other states must, upon arrival, be shown to the department or its wardens, and such department or its wardens shall stamp or mark said furs with a stamp or tag furnished by the department to show such furs are legally held and possessed.

(10) Nothing in this section shall prohibit persons from buying raw or dressed furs for the purpose of making themselves garments or robes of any kind, but such persons shall apply to the department or its wardens for permits to buy such furs.

(11) Any person who violates this section shall be fined not more than \$1,000, or imprisoned not more than 9 months, or both. Any person violating sub. (6m) shall forfeit not more than \$100.

History: 1975 c. 365.

29.135 Wholesale fish dealer's license.

(1) As used in this section unless the content otherwise requires:

(a) "Fish" means any and all varieties of fresh fish, fast-frozen, salted, filleted, packaged, pickled and smoked fish, frogs, frog legs and all other forms of sea food except rough

fish produced and sold by the state or by any person under a contract with the state and minnows produced and sold or purchased for bait.

(b) "Sea food" means those types of food sold fresh or frozen and commonly known as oysters, shrimp, lobsters, lobster tails, crabs, scallops, clams and other types of shell fish which are or can be lawfully taken for commercial purposes, but not any canned fish or such fish known as lutfish.

(c) "Canned fish" means fish and sea food products prepared for human consumption commercially, sterilized by heat and preserved in hermetically sealed containers.

(d) "Wholesale fish dealer" means any person who buys, barter, sells or solicits fish in any manner for himself or any other person for sale to anyone other than a consumer; but no established retail store or locker plant is deemed a "wholesale fish dealer" solely as the result of the sale of fish to a restaurant, hotel or tavern at no reduction in the retail price charged other retail customers. A producer, except as otherwise hereinafter provided, who sells fish directly to retailers is a wholesale fish dealer. Hotels, meat markets, grocery stores, restaurants and taverns are retailers, except when they sell fish for resale, in which case they are wholesale fish dealers.

(e) A "producer of fish" means any person who fishes with or without a crew. No producer who holds a commercial fishing license or contract pursuant to this chapter shall be required to obtain a license to sell the fish he produces.

(2) No person shall engage in business as a wholesale fish dealer until a license therefor has been obtained from the department issued pursuant to this section and s. 29.09.

(3) Wholesale fish dealers' licenses shall be issued by the department to persons duly applying therefor. Every wholesale fish dealer shall pay a license fee of \$25 for each calendar year. Every license shall expire on December 31.

(4) No person, licensed under sub. (2) shall transport or cause to be transported, or deliver or receive for transportation, any package or parcel containing any fish or carcass or part thereof unless it is labeled legibly in English on its address side so as to disclose the name and address of the consignor which shall be identical to that on the license, the name and address of the consignee and the number of pounds of each kind of fish contained in such package or parcel and the number of his license.

(5) Such licensee may sell, buy or barter, or offer to sell, buy or barter, or have in his

possession, or under his control, for sale or barter, any commercial fish (except sturgeon) which was lawfully taken either in this or in another state. He shall keep a separate record of the purchase of such fish in the form required by the department, and such record shall at all times be open to its inspection and that of its wardens.

(6) Any person who violates this section or who has illegal fish in his or her possession shall forfeit not more than \$200.

History: 1975 c. 365.

29.136 Taxidermists, license required.

(1) No person shall engage in the business of a taxidermist, as the term is generally understood, nor, for a consideration, mount, preserve, or prepare the dead body of any bird, animal, or fish, or any part thereof unless he shall first have secured a taxidermist's license from the department. Such license shall be renewed annually and shall expire on September 30 of each year. The fee therefor shall be \$5.

(2) Every taxidermist shall keep a record and make an annual report to the department, on forms which it shall supply, of all articles received in his business as a taxidermist, the kind and number of each, by whom owned, the residence of the owner; and of all shipments of such articles, by and to whom and where shipped, and the owner's address. All such records of taxidermists shall be subject to inspection by the department at any time.

(3) Any person who violates this section shall forfeit not more than \$100.

History: 1975 c. 365.

29.137 Bait dealer's license. (1) Bait dealers' licenses may be issued by the department to any resident of this state duly applying therefor who, in its judgment, has complied with the rules prescribed by it, governing the taking, handling and storing of bait, specifications of equipment, and the filing of reports.

(2) As used in this section unless the context requires otherwise:

(a) "Bait" means any species of frog, crayfish or minnow used for fishing purposes.

(b) "Bait dealer, Class A" means any person who buys for resale, barter, gives or sells bait to the amount of \$2,000 or more each year.

(c) "Bait dealer, Class B" means any person who buys or gives for resale, barter, or sells bait to the amount of less than \$2,000 each year.

(3) No person shall engage in the business of bait dealer without obtaining a license therefrom from the department issued pursuant to this

section, except that resident children under 16 years of age, without license or permit, may barter or sell bait to consumers and shall be allowed to have a possession limit of 5,000 of each species of bait, but no such resident child shall make bait sales totaling more than \$500 annually.

(4) The fee for such licenses shall be as follows:

(a) Bait dealer, Class A, \$25.

(b) Bait dealer, Class B, \$5.

(c) Every such license shall expire on December 31 in the year in which issued.

(5) In accordance with the public policy declared in s. 29.174 (1), the department may establish rules pursuant to s. 29.174, governing the methods of taking, handling and storing bait, specification of equipment used, and making of reports.

(5m) Each licensee shall keep a correct and complete book record in the English language of all transactions in the production, buying and selling of bait carried on by him, except that retail sales to consumers need not be recorded. This record shall show the name and post-office address from whom bait was purchased and to whom sold, together with the date of each transaction and the value of such bait. This record shall be open to the inspection of the department and its wardens at all reasonable hours. The record shall be kept intact for a period of 2 years after the expiration of any license issued under this section, as to all transactions carried on while such license was effective.

(6) All licensees under this section shall file such reports on their operations as bait dealers as are required by the department.

(7) The department may issue permits for the taking of bait from specified waters and restrict the number of permits that may be issued for any designated body of water. Such permits shall be issued in the order of application up to the limit established by the department.

(8) This section does not apply to bait produced in a private fish hatchery licensed under s. 29.52.

(9) Any person who molests, damages, destroys or takes the bait traps of another, regardless of intent, shall forfeit not more than \$100.

History: 1975 c. 365.

29.14 Nonresident fishing licenses; exception.

(1) Any nonresident under the age of 16 years, may without a license take, catch or kill with hook and line or rod and reel fish of any variety, subject to all other conditions,

limitations and restrictions prescribed in this chapter.

(2) Any nonresident over the age of 16 years shall have the right to take, catch or kill fish, or fish for fish with hook and line or with rod and reel in the waters of this state, only if a license has been duly issued to him, subject to s. 29.09, by the department and by the county clerk. The fee for each such license entitling the holder to take, catch or kill fish is \$12 and all such licenses shall be effective only from January 1 until the next succeeding December 31. A fishing license may be issued to a nonresident, to be effective for a period of 15 days, for the sum of \$7. A fishing license may be issued to a nonresident, to be effective for a period of 4 days, for the sum of \$5. An annual family fishing license may be issued to a nonresident for the sum of \$17.50 which shall entitle a nonresident husband and wife, and any minor children to fish under this license.

(3) As an alternative to the requirements of sub. (2), any nonresident over the age of 16 years shall have the right to take, catch or kill fish, or fish with hook and line or with rod and reel in the waters of the Great Lakes and Green Bay only if a daily sports fishing license has been issued in accordance with procedures established by the department. The fee for each such license shall be \$2 and shall be effective only for the date of issuance. A 25-cent fee as compensation for issuing such licenses through agents shall be paid.

(4) Any nonresident in possession of a duly issued nonresident fishing license of current issue is permitted to take minnows for bait or smelt for food under the same conditions and rules governing residents. However, no such minnows or smelt taken by nonresidents may be sold, traded or bartered in any manner.

History: 1971 c. 22, 42, 125; 1973 c. 90 s. 538; 1973 c. 145.

29.145 Resident fishing licenses; exception. (1) Any resident under the age of 16 years or over the age of 65 years and any physically or mentally handicapped individual committed to the north, south or central centers for the developmentally disabled, during the period of their commitment may without license take, catch or kill fish subject to all other provisions of law; but no other resident between the ages of 16 and 65 years may take, catch or kill fish, or fish for fish with hook and line or with rod and reel in any of the waters of this state unless a resident fishing license has been duly issued to the resident, subject to all other provisions of law, but no license shall be required of any resident to set, place or use in any waters in this state any landing net, dip

net, minnow seine or minnow dip net for fish other than game fish.

(1a) The department is directed upon application therefor to issue a permanent fishing license without fee or charge to any resident over the age of 65 years and such license shall not expire, but shall be effective so long as the licensee is a resident of this state.

(1b) The department shall issue fishing licenses without fee to inmates of county hospitals, state or federal mental hospitals, state correctional institutions and to patients or inmates resident at nonprofit institutions sponsored by religious organizations and located in this state for rehabilitation purposes upon request of the superintendent of the institution.

(1c) (a) The department shall upon application therefor issue a permanent fishing license without fee or charge to any resident who:

1. Produces a certificate from a licensed physician or optometrist stating that his sight is impaired to the degree that he cannot read ordinary newspaper print with or without corrective glasses;

2. Produces evidence indicating he has been determined 75% disabled or more for purposes of social security, retirement or other disability benefits.

(b) Licenses issued under this subsection shall not expire, but shall be effective so long as the licensee is a resident of this state and his handicap continues.

(2) Resident fishing licenses shall be issued subject to s. 29.09 by the department or by county clerks of the several counties to residents of the state duly applying therefor. The fee for each such license is \$4.

(3) As an alternative to the requirements of this section, any resident 16 years of age or older shall have the right to take, catch or kill fish, or fish with hook and line or with rod and reel in the waters of the Great Lakes and Green Bay if a daily sports fishing license has been issued in accordance with procedures established by the department. The fee for each such license shall be \$2 and shall be effective only for the date of issuance. A 25-cent fee as compensation for issuing such licenses through agents shall be paid.

(4) (a) The department shall issue a trout stamp for a fee of \$2.25 to each person holding or applying for a fishing license under this section or s. 29.09 (12), 29.14, 29.146 or 29.147 if the person uses or intends to use the license for trout fishing in inland waters of the state. The trout stamp shall be designed and produced by the department, shall be attached to the fishing license and shall be valid for the

calendar year. Any person who is exempt from payment or charge for a fishing license is exempt from the requirements of this paragraph.

(b) The department shall expend the receipts from sale of trout stamps on improving trout habitat in the inland waters of the state and administering this subsection. Collection and remittance procedures applicable to fishing license fees under s. 29.09 apply to trout stamp fees except that the additional fee collected under s. 29.09 (10) is 25 cents whether the trout stamp is purchased by a resident or nonresident.

(c) For purposes of this subsection, "inland waters" shall not include any harbors on Lake Michigan or Lake Superior.

History: 1971 c. 22, 282; 1973 c. 90 s. 538; 1975 c. 39; 1975 c. 189 s. 99 (2); 1975 c. 216, 421; 1977 c. 29, 418.

29.146 Husband and wife fishing licenses. A combined husband and wife resident fishing license shall be issued subject to s. 29.09 by the department to residents of the state duly applying therefor. Such license shall grant to both husband and wife the privileges of resident fishing licenses issued under s. 29.145. The fee for such license is \$7.

History: 1973 c. 90 s. 538.

29.147 Sportsmen's licenses; fees; application. (1) Sportsmen's licenses shall be issued by the department or its authorized agents or by the county clerks to any resident of this state who is over the age of 12 years, a citizen of the United States, and who applies therefor and pays the prescribed license fee. The minimum fee for each such sportsmen's license is \$16, but any applicant, at his option, may pay an additional or greater fee therefor. Licenses shall be issued as of August 31 in each year and expire one year from the date of issuance.

(2) The application for such license shall state the residence and post-office address of the applicant, a description of his person, and such other facts, showing him to be entitled to such license, as the department may require. Application blanks shall be furnished by the department and, except as herein stated, shall be in such form as the department may prescribe.

(3) Each license shall state the year for which the same is issued, the name and residence of the licensee, a description of his person, and such other matter as is determined by the department, and shall bear upon its face a true signature of the licensee, and the seal of the department or the signature of its duly authorized agent issuing it. Such license shall

be carried on the person of the licensee at all times when he is engaged in hunting, trapping or fishing and shall be exhibited to the department or its wardens on demand. Such license shall be in lieu of, and confer upon the licensee all the combined rights and privileges conferred by, a resident small game hunting license, resident fishing license, resident deer hunting license and trapping license, subject, however, to all the duties, conditions, limitations and restrictions prescribed in this chapter, and by department order.

(4) The department or its duly authorized agents issuing any such license shall furnish to the applicant a deer tag during years of open season for such animals.

History: 1973 c. 90 ss. 166, 538; 1973 c. 145.

29.148 Sturgeon spearing licenses. (1)

Sturgeon spearing licenses shall be issued subject to s. 29.09 by designated civil service employes of the department or by the county clerks, for a fee of \$2.50, on blanks furnished by the department, to any person duly applying therefor who:

(a) Is 14 or 15 years of age;

(b) Is at least 14 years of age and holds a sportsmen's license issued under s. 29.147; or

(c) Holds a resident fishing license issued under s. 29.145, or a nonresident fishing license issued under s. 29.14.

(2) Such license shall be accompanied by sturgeon tags in such quantity to correspond with the season bag limit for spearing rock or lake sturgeon established by the department. The serial numbers of such tags shall be entered on the license by the issuing agent.

(3) Such license applies to the spearing of rock or lake sturgeon only during the open season for spearing such sturgeon established by the department and it is unlawful for a person to fish for sturgeon by means of a spear unless a sturgeon spearing license has first been issued to him as provided in this section. Such license shall be carried on the person of the licensee at all times while fishing for sturgeon by means of a spear.

(4) Any person having taken a rock or lake sturgeon by means of a spear shall immediately attach and lock, and leave attached and locked to the tail of such sturgeon, a sturgeon tag issued to him with his sturgeon spearing license and it is unlawful for any person to have in his possession or under his control or have in storage or as a common carrier any such sturgeon or part thereof without such tag attached and locked thereto.

29.16 Interstate license privileges. Whenever and so long as the states of Michigan,

Minnesota or Iowa confer upon the licensees of this state reciprocal rights, privileges and immunities, any hook and line or other fishing license, or clamming license issued by such other state shall entitle the licensee to all the rights, privileges and immunities, in and upon the boundary waters between such state and this state, enjoyed by the holders of equivalent licenses issued by this state; subject, however, to the duties, responsibilities and liabilities imposed on its own licensees by the laws of this state.

29.165 Guide licenses. (1) No person shall engage, or be employed for any compensation or reward, to guide, direct or assist any other person in hunting, fishing or trapping unless a guide license has been duly issued to him by the department subject to s. 29.09. No such license shall be issued to or obtained by any person who is not a resident of this state. No guide license shall be issued to any person under the age of 18 years. The fee for such license shall be \$5 and all such licenses shall be effective from January 1 until the next succeeding December 31. The applicant shall deliver to the department an oath of office that he shall well and faithfully perform the duties and responsibilities of his office as a guide licensed by the department and observe and comply with all the requirements of ch. 29 and the rules of the department.

(2) Any person violating this section shall forfeit not more than \$100 and upon such conviction the person's guide license shall be revoked for one year.

History: 1975 c. 365.

29.166 Outlying water sport trolling licenses. (1) No person may be engaged or be employed for any compensation or reward, to guide any other person in sport trolling for trout or salmon in and upon the outlying waters of Lake Michigan, Green Bay or Lake Superior unless the person has been duly issued a sport trolling license by the department subject to s. 29.09. No license may be issued to any person under the age of 18 years. The application shall include the name and address of the applicant, the name of the home port from which the applicant will operate, the applicant's U.S. coast guard operator's license number and such other information as may be required by the department for statistical purposes. The fee for each license shall be \$60 for residents of this state and \$400 for nonresidents. All sport trolling licenses shall be effective from January 1 until the next succeeding December 31. The licensee and all

persons on board the licensee's boat shall comply with all the requirements of ch. 29 and the rules of the department. Boats used by the licensee shall meet minimum U.S. coast guard and this state's boat licensing and safety requirements.

(2) Each licensee shall keep an accurate record and account as to the number of each variety of fish taken under his or her sport trolling license and such other information as the department requires, and shall report to the department on forms provided by the department on or before the 10th day of each month on the records for the preceding calendar month. The licensee is responsible for the number of fish taken and shall be held to account for the number.

(3) No person licensed under this section may engage in or conduct any sport trolling operation in or upon the outlying waters of Lake Michigan, Green Bay or Lake Superior between one-half hour after sunset and sunrise of the following morning.

(4) Any person licensed as a sport troller who violates this section or any requirements of this chapter applicable to sport fishing or rules adopted under this section or under this chapter relating to sport fishing, shall forfeit not more than \$100. Upon a 2nd conviction for any offense under this subsection within 3 years the person's sport trolling license shall be revoked for one year beyond the date of expiration of the license in effect at the time of the revocation.

History: 1973 c. 173; 1975 c. 365; 1977 c. 418.

29.17 Scientific collectors permits. (1) The department may issue scientific collectors permits to qualified natural persons as provided in this section. Such permit authorizes the permittee to collect for scientific purposes only, the eggs, nest and wild animals specified in the permit subject to the conditions and limitations specified in the permit and the rules of the department. The permittee may use the specimens for the scientific purposes collected and may transport them or cause them to be transported by common carrier. Possession of such specimens shall not be transferred to any other person, except such specimens may be exchanged for other specimens for scientific purposes.

(2) Application for such permits shall be made to the department on blanks furnished by it. No fee shall be required.

(3) Upon receipt of such application the department shall investigate the same. When satisfied that the applicant is engaged in a bona fide research program leading to increased, useful scientific knowledge the department

may issue a scientific collectors permit to the applicant. Such permit shall state the name and address of the permittee, the date of issue, the purposes for which it is issued, the type, species and number of specimens authorized to be collected, the area and period of time in which the specimens may be collected, the place the specimens shall be kept and such other conditions and limitations as the department deems reasonable. Each such permit shall expire on December 31 following the date of issue and shall not be transferable.

(4) The department may make rules regulating all operations and activities conducted under the authority of such permits.

(5) Any person convicted of a violation of this chapter or of any rule of the department shall forfeit his permit and such permit is thereby revoked, in addition to all other penalties. Any person so convicted shall not be eligible for a permit under this section for the period of one year following the date of such conviction.

29.174 Conservation of fish and game; powers of department.

(1) There shall be established and maintained, as hereinafter provided, such open and close seasons for the several species of fish and game, and such bag limits, size limits, rest days and conditions governing the taking of fish and game as will conserve the fish and game supply and insure the citizens of this state continued opportunities for good fishing, hunting and trapping. Except for the Apostle Islands other than Madeline Island and except for deer hunting licenses issued under s. 29.105 (5), no deer hunting license shall be valid in a designated area if dated on or after the opening date for the gun deer season for such area unless the open season in an area overlaps the open season in another area in which case deer hunting licenses dated before the opening date in any area shall be valid in any other area during the period such seasons overlap.

(2) (a) The department shall establish open and closed seasons, bag limits, size limits, rest days and other conditions governing the taking of fish or game, in accordance with the public policy declared in sub. (1), but all fishing seasons on inland waters shall open on a Saturday. Such authority may be exercised either with reference to the state as a whole, or for any specified county or part of a county, or for any lake or stream or part thereof.

(b) The department may regulate and limit the number of hunters and the maximum harvest of wild turkeys in any area.

(c) 1. The department may regulate and limit the number of hunters and the maximum harvest of Canada geese in any area, by:

a. Requiring hunters to tag each goose killed with a tag issued by the department; or

b. Requiring registration of each farm on which Canada goose hunting is allowed and registration of each goose killed at the farm.

2. No preference may be given in the distribution of such tags, except that any applicant who unsuccessfully applied for tags in the previous year shall be given priority over any applicant who successfully applied for tags in the previous year.

(3) The department may exercise the authority conferred upon it in sub. (2) by adopting rules either on its own motion or on petition from any group of citizens. Provided, that upon petition of not less than 1,000 citizens in case of a contemplated rule affecting the entire state or a part thereof larger than 2 counties, or of not less than 50 citizens residing in the county if but a single county or part thereof is affected, or of not less than 100 citizens residing in the 2 counties if not more than 2 counties or parts thereof are affected, the department shall conduct one or more public hearings upon such proposed rule, at a place convenient to the petitioners. Notice of such hearing shall be published in the community affected as a class 3 notice, under ch. 985. The department shall send prior written notice of any hearing held under this section to the Wisconsin conservation congress delegates for the area affected by the proposed rule.

(4) The department shall make such investigations relative to any petition or proceedings under this section as it deems necessary, and may organize advisory committees to advise it on any matter under consideration. Members of such committees shall receive no compensation but shall be reimbursed their actual and necessary expenses.

(4a) The secretary may make emergency rules pursuant to s. 227.027.

(5) Rules promulgated, under authority of this section, are not effective until approved by the governor.

(6) All rules of the department in conformity with law are prima facie reasonable and lawful.

(7) Every rule in conformity with law, made under authority of this section, shall in every prosecution for violation thereof be conclusively presumed to be just, reasonable and lawful, unless prior to the institution of prosecution for such violation the person charged

with such violation shall have brought an action to vacate and set aside such rule, as provided in this section.

(8) Any rule of the department is subject to review in the manner provided in ch. 227, except that if the rule affects only the county in which the appellant resides, the appeal shall be to the circuit court of such county.

(9) The present statutes regulating open and close seasons, bag limits, size limits, rest days and other conditions governing the taking of fish or game shall continue in full force and effect until modified by rules of the department, as provided in this section, or by subsequent acts of the legislature.

(12) Nothing in this section shall be construed to confer upon the department the power to alter any provisions of the statutes relating to forfeitures, penalties, license fees or bounties.

(13) This state assents to the provisions of the acts of congress entitled "An act to provide that the United States shall aid the states in wildlife-restoration projects, and for other purposes," approved September 2, 1937 (Public No. 415, 75th Congress), and "An act to provide that the United States shall aid the states in fish restoration management projects, and for other purposes," approved August 9, 1950 (Public No. 681, 81st Congress), and the department is authorized, empowered and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife-restoration and cooperative fish restoration projects, as defined in said acts of congress, in compliance with said acts and with rules and regulations promulgated by the secretary of the interior thereunder; and no funds accruing to this state from license fees paid by hunters and from sport and recreation fishing license fees shall be diverted for any other purpose than those provided by the department.

History: 1971 c. 179; 1975 c. 181.

29.175 Nongame species. (1) The department may conduct investigations of nongame species in order to develop scientific information relating to population, distribution, habitat needs, and other biological data in order to determine necessary conservation measures. On the basis of these scientific determinations the department may adopt rules and develop conservation programs designed to ensure the continued ability of nongame species to perpetuate themselves. The rules may require harvest information and establish limitations relating to taking, possession, transportation, processing and sale or offer for sale, in order to conserve nongame species.

(2) No rules adopted or programs developed under this section may impede, hinder or prohibit the utilization of lands for the construction, operation or maintenance of utility facilities otherwise authorized or permitted.

(3) Any action by the department to create, amend or repeal a rule under this section after notice, hearing and publication as provided under ss. 227.02 to 227.027, shall be forwarded to the speaker of the assembly and the president of the senate for referral to and review by the appropriate standing committee of each house as determined by the presiding officer of each. For the purpose of reviewing such proposed action on a rule, the standing committee may be convened upon call of its chairperson or of a majority of its members. Each standing committee may, within 40 days from receipt of the proposed action, approve or disapprove the proposed action, but failure of a standing committee to disapprove the proposed action within the review time shall constitute approval thereof. The proposed action shall become effective only upon the approval of both committees. This subsection does not apply to emergency rules adopted under s. 227.027.

History: 1977 c. 370.

29.21 Publications. (1) The department may issue pamphlets and bulletins, and may also issue a publication or magazine at such stated intervals as they may determine, all pertaining to fish and game, forests, parks and other kindred subjects of general information and may sell subscriptions thereto.

(2) The department may reprint department publications for sale.

History: 1975 c. 224; 1977 c. 418.

29.22 General restrictions on hunting.

(1) **HUNTING RESTRICTED AREAS.** No person shall hunt within 1700 feet of any hospital, school grounds or sanatorium. The department may furnish signs designating the restricted area. No conviction shall be had for a violation of this subsection unless the restricted area is designated by such signs.

(2) **COLOR OF CLOTHING.** In the areas in which there is a season for the hunting of deer with firearms, no person may hunt any game except waterfowl during such season unless at least 50% of the visible portion of the hunting cap and at least 50% of the jacket of such person, excluding the sleeves, shall be red, orange or bright yellow or covered with a handkerchief or cloth of red, orange or bright yellow color. Any person violating this subsection shall forfeit not more than \$10.

(3) BACK TAG, DISPLAY. No person may hunt deer unless there is attached to the center of the person's coat, shirt, jacket or similar outermost garment where it can clearly be seen the back tag issued to the person with the license authorizing the hunting of deer.

History: 1975 c. 360, 365, 421

29.221 Duties on accidental shooting.

(1) Any person who, while hunting any wild animal or bird, discharges a firearm or arrow, and thereby injures or kills another person, shall forthwith give his name and address to such person if injured and render such assistance to him as may be necessary and obtain immediate medical or hospital care, and shall immediately thereafter report such injury or death to the sheriff or police of the locality in which such shooting took place.

(2) Any person intentionally failing to comply with sub. (1) shall be fined not more than \$5,000, or imprisoned in the county jail not more than one year, or both. Any person who neglects to comply with sub. (1) shall be fined not more than \$5,000 or imprisoned not more than 9 months or both.

History: 1975 c. 365.

29.222 Hunting accident; failure to report.

(1) Every person who shall have caused or been involved in an accident in which a human being has been injured by gunfire or by bow and arrow while hunting or trapping, or shall have inflicted an injury upon himself with firearm or with a bow and arrow while hunting or trapping, shall render a report to the department at any of its field offices within 10 days after such injury unless such person be physically incapable of making the required report in which event the person or persons involved in the accident shall designate an agent to file the report within the specified time.

(2) Any person who has been involved in an accident with firearm or bow and arrow while hunting or trapping, and who fails to submit the report required by this section shall forfeit not more than \$50. In addition, the court may revoke any license issued to such person under this chapter and may further provide that no license shall be issued to such person under this chapter for such fixed period of time that the court may deem just.

History: 1975 c. 365.

29.224 Safe use and transportation of firearms.

(1) No person may possess, place or transport in or on a motor-driven boat while the motor is running any firearm, bow or crossbow unless such firearm is unloaded and enclosed within a carrying case and unless such

bow or crossbow is unstrung or enclosed within a carrying case.

(2) No person may possess, place or transport in or on any aircraft, vehicle or automobile any firearm, bow or crossbow unless such bow or crossbow is unstrung or enclosed within a carrying case or such firearm is unloaded and enclosed within a carrying case.

(3) No person may load, fire or shoot any firearm, crossbow or bow and arrow in, on or from any automobile, aircraft or vehicle, stationary or moving except as provided in s. 29.09 (9).

History: 1975 c. 246; 1977 c. 232.

29.225 Safe use of firearms, instructions in using.

(1) RULES AND REGULATIONS. The department shall publish rules and regulations establishing a state-wide program of instruction in the safe use of firearms. Such regulations shall provide for courses of instruction in every municipality or school district in this state by the department in cooperation with qualified individuals, organizations, groups, associations and any private or public corporations or political subdivisions of the state, the United States or any federal agency. The courses shall instruct the youth of the state in the commonly accepted principles of safety in hunting and in the handling of all types of common hunting firearms.

(2) CERTIFICATE OF ACCOMPLISHMENT. The department shall issue a certificate of satisfactory completion of the courses of instruction required under this section to any person entitled to a certificate. The certificate may be used by a resident to whom issued in lieu of a small game hunting license as required in s. 29.09. The certificate shall be valid for one calendar year effective September 1 of the year following the date of issuance of the certificate and shall expire on August 31 of the next year. The form and content of the certificate shall be as prescribed by the department.

(3) ADMINISTRATION, SUPERVISION AND ENFORCEMENT. The chief officer of the law enforcement function of the department shall be the department's authorized agent to administer, supervise and enforce this section. The department shall appoint a qualified person from the law enforcement function, under the classified service, as supervisor of hunting safety and shall prescribe his duties and responsibilities. The department may appoint one or more county directors of hunting safety in each county of the state. Such county director shall be responsible to the department, and shall serve on a voluntary basis without

compensation. The supervisor of the law enforcement function may appoint such instructors as are necessary to carry out the purposes hereof.

(4) USE OF FIREARMS IN TAKING WILD ANIMALS; WHEN FORBIDDEN. Except as hereinafter provided, it is unlawful for any person under the age of 16, unless accompanied by a parent or guardian, to have in his possession or under his control any firearm of any kind for hunting or target practice or any other purpose. Any person participating in a course of supervised instruction pursuant to this section may carry encased and unloaded firearms to and from class and may operate the same during the course of such supervised instruction. Any person between the ages of 14 and 16 years who has a certificate as herein provided, or a hunter safety certificate duly issued by another state or province, is exempted from this section and from the age limitations of s. 29.09 (1). No certificate shall be issued to a person under 12 years of age. No parent or guardian of any child under 16 years of age shall authorize or knowingly permit such child to violate this section.

(5) FEES. For the purpose of defraying the expenses of the program within the state, the department shall collect \$3 from each person who has received the courses of instruction provided in this section. The department may authorize instructors conducting firearms safety courses meeting standards established by it to retain \$1 of the fee to defray expenses incurred locally to operate the program. The remaining \$2 of the fee shall be deposited with the state treasurer.

(6) INSURANCE PROTECTION. The department shall procure insurance against all liability incurred by it or any of its wardens or employes or by any such county supervisors, county directors and instructors, by reason of any claim for bodily injury, death or property damage made against the department or any of its wardens or employes or against such county directors, county supervisors and instructors, by reason of the performance of their duties in connection with carrying out this section. Such policy of insurance shall contain a waiver of governmental immunity, and such immunity shall not be raised as a defense.

History: 1973 c. 285; 1977 c. 224.

29.23 Hunting with aid of airplane prohibited. No person shall hunt any animal with the aid of an airplane, including the use of an airplane to spot, rally or drive animals for hunters on the ground.

History: 1971 c. 151.

29.24 Hunting by landowners. The owner or occupant of any land, and any member of his family may without license hunt thereon foxes, raccoons, woodchucks, rabbits and squirrels at any time, except during the period of 5 days prior to the opening date for deer hunting in those counties or parts of counties where an open season for hunting deer with firearms has been established, and may take rabbits, raccoons and squirrels thereon at any time by means of live trapping with box traps in cities or villages or other areas where the firing of a gun is unlawful.

29.255 Training of hunting dogs and rules for dog trials. The department may adopt, pursuant to s. 23.09, such rules governing the training of hunting dogs and the conduct of dog trials as in its opinion are necessary to encourage the use of hunting dogs and to safeguard wildlife in the state, but such rules shall not be made for the use of dogs for general hunting of small game during general hunting seasons.

29.256 Taking homing pigeons. Any person who takes, catches, kills or impedes the progress or otherwise interferes with any homing pigeon shall forfeit not more than \$50.

History: 1975 c. 365.

29.27 Regulation of waterfowl blinds. (1) In this section:

(a) "Blind" means a permanent structure used in hunting waterfowl which is not removed at the end of hunting hours each day.

(b) "Waterfowl" means wild geese, brant, wild ducks, rails, coots, gallinules, jacksnipe, woodcock, plovers, sandpipers and wild swan.

(3) A blind situated on state-owned property and used in hunting waterfowl must bear the name of the owner affixed permanently to the blind in lettering one-inch square or larger. The blind may be erected not more than 7 days prior to the opening of the waterfowl hunting season, as prescribed by the department, and must be removed within 7 days after the close of the season. A blind situated on state-owned property which does not bear the name of the owner as prescribed by this section is a public nuisance. The department may seize all such nuisances and may destroy or sell the blinds in the name of the state. The department and its deputies are exempt from all liability to the owner for the seizure and destruction or sale of the blind. The owner is responsible for removing the blind within 7 days after the close of the waterfowl hunting season. Any owner who erects a blind more than 7 days prior to the opening of the waterfowl hunting season or

who does not remove a blind within 7 days after the close of the waterfowl season shall be subject to a forfeiture of not less than \$10 nor more than \$200.

History: 1977 c. 443

29.283 Fishing shanties on ice, regulation. (1) The department shall establish rules and regulations governing the use of buildings, vehicles, tents, fish shanties and similar shelters for fishing through the ice in any waters of the state.

(3) Any building, vehicle, tent, fish shanty or similar shelter used or left remaining on the ice in violation of any department order is a public nuisance. The department may seize all such nuisances whereupon the owner must be notified; if after the expiration of 10 days after notice given the owner does not claim such nuisance, the department may destroy or sell the same in the name of the state; the department and its deputies shall be exempt from all liability to the owner for such seizure and destruction or sale.

29.286 Possession of fishing equipment.

(1) No person shall have in his possession or under his control at any time any trammel, gill, or hoop net, or any other kind of net, nets, or fish trap that might take, catch or kill fish in the counties of: Adams, Barron, Burnett, Calumet, Chippewa, Clark, Columbia, Dane, Dodge, Dunn, Eau Claire, Florence, Fond du Lac, Forest, Green, Green Lake, Iowa, Jackson, Jefferson, Juneau, Lafayette, Langlade, Lincoln, Marathon, Marquette, Monroe, Oneida, Outagamie, Polk, Portage, Price, Richland, Rock, Rusk, Sauk, Sawyer, Shawano, Taylor, Vilas, Walworth, Washburn, Washington, Waukesha, Waupaca, Waushara, Winnebago and Wood except minnow nets and minnow traps, whitefish and cisco nets, dip nets, crab traps and turtle traps as provided in this chapter or by department order.

(2) Nothing in this section shall prohibit the department or its agents from having in possession, using, or causing the use of any kind of nets as provided under other sections in the statutes, nor prohibit the possession or use of nets by contract fishermen who are operating under the supervision of the department.

29.288 Throwing refuse in waters; abandoning automobiles, boats or other vehicles. Whoever deposits, places or throws into any waters within the jurisdiction of the state, or leaves upon the ice or in the water thereof, any cans, bottles, debris, refuse or other solid waste material, and whoever abandons any

automobile, boat or other vehicle in such waters, shall forfeit not more than \$200. Any automobile, boat or other vehicle not removed from such waters within 30 days shall be deemed to be abandoned.

History: 1975 c. 365.

Cross Reference: See 947 047 for prohibition of throwing metal or glass cans or bottles in or on the shore of any body of water.

29.29 Noxious substances. (1) **EXPLOSIVES; STUPEFACTIVES.** No person may take, capture or kill fish or game of any variety in any waters of this state by means of dynamite or other explosives or poisonous or stupefying substances or devices; or place in any waters of this state explosives which might cause the destruction of fish or game, except for the purpose of raising dead bodies whenever ordered by the public authorities, or for the purpose of clearing a channel or breaking a log or ice jam; or have in the possession or under the control of such person, upon any inland waters, any dynamite or other explosives or poisonous or stupefying substances or devices for the purpose of taking, catching or killing fish or game. Whoever violates this subsection shall be fined not more than \$500 or imprisoned not more than 90 days or both.

(2) **POISON BAIT.** No person shall use, set, lay or prepare in any of the waters of this state any lime, poison, fish berries, or any other substance deleterious to fish life.

(3) **DELETERIOUS SUBSTANCES.** (a) No person may cast, deposit or throw overboard from any boat, vessel or other craft into any waters within the jurisdiction of the state, or deposit or leave upon the ice thereof until it melts, any fish offal. Any person violating this paragraph shall forfeit not more than \$200.

(b) No person may throw or deposit, or permit to be thrown or deposited, into any waters within the jurisdiction of the state any lime, oil, tar, garbage, refuse, debris, tanbark, ship ballast, stone, sand, except where permitted by s. 30.12 (2) (b), slabs, decayed wood, sawdust, sawmill refuse, planing mill shavings or waste material of any kind, or any acids or chemicals or waste or refuse arising from the manufacture of any article of commerce, or any other substance deleterious to game or fish life other than authorized drainage and sewage from municipalities and industrial or other wastes discharged from mines or commercial or industrial or ore processing plants or operations, through treatment and disposal facilities installed and operated in accordance with plans submitted to and approved by the department of natural resources under ch. 144, or in compliance with orders of that department. Any

such order shall be subject to modification by subsequent orders. Any person violating this paragraph shall forfeit not more than \$200. Each day of a continuing violation is a separate offense.

(c) Any person who intentionally violates this subsection shall be fined not more than \$200 or imprisoned not more than 90 days or both.

(4) **USE OF PESTICIDES.** The department of natural resources, after public hearing, may adopt rules governing the use of any pesticide which it finds is a serious hazard to wild animals other than those it is intended to control, and the making of reports thereon. In making such determinations, the department to the extent relevant shall consider the need for pesticides to protect the well-being of the general public. It shall obtain the recommendation of the pesticide review board and such rules are not effective until approved by the pesticide review board. "Pesticide" has the meaning designated in s. 94.67.

(5) **DEPARTMENT OF TRANSPORTATION ACTIVITIES; EXCEPTION.** This section does not apply to any activities carried out under the direction and supervision of the state department of transportation in connection with the construction, reconstruction, maintenance and repair of highways and bridges accomplished in accordance with s. 30.12 (4).

History: 1971 c. 73; 1975 c. 363, 365; 1977 c. 130

Cross Reference: See 134.67 for prohibition of use of DDT and exceptions to the prohibition.

The legislative history and language of (3) indicates that the statute is concerned primarily with the discharge into navigable waters of refuse arising from manufacturing activities and does not attempt to prohibit silting caused by surface water runoff. *State v. Deetz*, 66 W (2d) 1, 224 NW (2d) 407.

See note to 29.65, citing 62 Atty Gen 130.

A proposed rule prohibiting the use of the chemical 2,4,5-T unless a permit has been obtained is within the statutory authority of DNR under (4). 64 Atty Gen 126

Discharging taconite tailings into water of Lake Superior was violation of Federal Water Pollution Control Act and common-law nuisance. *United States v. Reserve Mining Co.* 380 F Supp 11.

29.30 Fishing with nets and set lines. (1)

LICENSE REQUIRED. Nets and set lines may be used for the purpose of taking, catching, or killing fish, subject to the conditions, limitations and restrictions prescribed in this chapter; but no person shall set, place or use in any waters of this state any net, trap, snare, set hook, or set line, which is intended to or might take, catch or kill fish of any variety, other than a landing net, dip net, minnow seine or minnow dip net, unless a license therefor has been duly issued to such person.

(2) **RESTRICTIONS ON THE USE OF LICENSED NETS AND SET LINES.** The use of licensed nets

and set lines is subject, further, to the following conditions:

(a) No apron or other device shall be used in any pound net, which might prevent the escape of small fish through the meshes of the net when it is set or raised.

(b) No net of any kind shall be set so as to shut off more than one-half of any channel or passageway of any stream, or set within 1,000 feet of any other net in said stream.

(c) No licensee shall join his net to that of any other licensee.

(d) All nets or set hooks when set or placed in any waters shall be marked with a number corresponding to the license number authorizing the use of the nets or set hooks. The method of marking the nets shall be as follows: On drop nets, submarine trap nets and fyke nets, when set below the surface of the water, there shall be a buoy attached to the pot rope, on all gill nets and set hooks there shall be a buoy on each end of the gang, the buoys shall have a staff extending at least 3 feet above the surface of the water, upon the upper end of the staff there shall be a flag at least 10 inches square. Upon the bowl of the buoys there shall be maintained in plain figures the license number authorizing the use of the nets or set hooks. On pound nets and stake fyke nets there shall be maintained at least 3 feet above the surface of the water, or the surface of the ice, when set through the ice, a board or similar material, which shall bear the license number authorizing the use of the nets. On gill nets or set hooks when set through the ice there shall be maintained on each end of the gang a board or similar material which shall bear the license number authorizing the use of the nets or set hooks.

(e) The licensees of licensed nets or set lines used in outlying waters while engaged in the regular process of lifting nets or set lines shall, on their boats, carry the department's agents to and from their nets or set lines when set and, on demand of the agent, shall raise the same for his inspection; and any such agent may, in the presence or absence of the licensees, at any time, raise any set line or nets, in any waters, with as little damage as may be, for inspection. If any such licensee shall refuse to carry any agent as herein provided his license shall be revoked and canceled.

(f) No licensed net shall be drawn or lifted at any time between one hour after sunset and sunrise of the following morning, in any waters other than Lake Superior, Lake Michigan, Green Bay, the Fox river beyond a distance of

500 feet below the dam at De Pere and Sturgeon Bay.

(g) No fish of any kind shall be taken or retained in any net, when drawn or lifted, other than the kind or kinds expressly authorized to be taken or retained in such net, as provided in this chapter; and except as provided by department order any such other kind or kinds of fish coming into or taken in such nets shall be immediately returned, carefully and with as little injury as possible, to the waters from which they were taken.

(h) All rough fish taken in nets or on set lines shall be brought to shore and buried, sold or otherwise lawfully disposed of, but no rough fish shall be returned to any waters.

History: 1971 c. 266; 1975 c. 360, 422; 1977 c. 418.

See note to 29.09, citing *State v. Gurnoe*, 53 W (2d) 390, 192 NW (2d) 892.

29.33 Commercial fishing in outlying waters.

(1) **LICENSE AUTHORIZED.** Any person desiring to conduct commercial fishing operations on any of the outlying waters shall first obtain a commercial fishing license. The department may limit the number of licenses issued under this section and designate the areas in the outlying waters under the jurisdiction of this state where commercial fishing operations shall be restricted. The department may establish harvest limits and allocate the harvest limits among commercial fishing licenses. The department may designate the kind, size and amount of gear to be used in the harvest. The limitations on licenses, restricted fishing areas, harvests and gear shall be based on the available harvestable population of fish and in the wise use and conservation of the fish so as to prevent overexploitation. The department may adopt rules defining the qualifications of licensees in the reasonable exercise of this authority, giving due consideration to residency, past record, fishing and navigation ability and quantity and quality of equipment possessed. Rules relating to licensing commercial fishers shall be based on criteria provided by the commercial fishing boards under sub. (7). The application for the license shall be made to the department on a blank provided for that purpose, accompanied by the fee specified in sub. (2). The application shall state the name and residence of the applicant, the manner in which he or she proposes to fish, the name or number, overall length and value of his or her boats, the name of the hailing port from which the boats will operate, and the number and kind of nets or other gear he or she intends to use, the value of real estate used in connection with commercial fishing and any other information required by the department

for statistical purposes. "Overall length" means the minimum distance between the extreme outside end of the bow and the stern using the nearest whole number of feet. The license fee shall be based on the overall length of each boat if boats are used. The license shall be issued in accordance with s. 29.09.

(2) **FEES.** (a) *Resident.* The fees for commercial fishing licenses for residents of this state shall be:

1. For fishing without a boat or with a boat not exceeding 25 feet in overall length, \$60 per year.

2. For each boat in excess of 25 feet in overall length used in catching, killing, taking or transporting fish caught with nets, \$200 per year and \$5 per foot additional for each foot over 40 feet in overall length. No license is required for a boat used only in transporting nets. Each license shall entitle the licensee to operate a rowboat not exceeding 16 feet in overall length without additional license. Each such rowboat shall bear the same identification as the boat for which the license is issued and shall be used only while attending the boat for which the license is issued. Licensees under this subdivision may fish without a boat without an additional license. No resident may pay less than \$200 or more than \$300 per year on any boat regulated under this subdivision.

3. For fishing with or without a boat only for the harvest of rough fish from outlying waters when the fish are taken under a contract issued under s. 29.62 or 29.625, \$25 for each boat.

(b) *Nonresident.* The following fees for commercial fishing licenses shall be required from nonresidents:

1. Fishing without a boat or with gear set under the ice, \$300.

2. For each boat 25 feet or less in overall length used in catching, killing, taking or transporting fish caught with nets, \$300, and, in addition, \$3 per foot of the overall length. For each boat greater than 25 feet in length, \$800, and, in addition, \$3 per foot of the overall length. No license is required for a boat used only in transporting nets. No nonresident person may pay less than \$300 or more than \$900 per year on any boat.

(c) *Nonresident defined.* For the purpose of this section, the term "nonresident" shall include any individual who is not a resident under s. 29.01 (8), any individual applying for a license for use of nets on a boat registered or of record at a port outside of the state, or any partnership, association or corporation any of whose stock, boats, nets and fishing equipment has been owned by a nonresident at any time during the 2 years immediately prior to the application for a license.

(d) *Transfer of license.* The department may, upon application, permit the transfer of a license to any similar boat during the time a licensed boat is disabled or undergoing repairs or upon the sale of a licensed boat. The fee for transfer of the license is \$5. The department shall establish rules governing the transfer of commercial fishing licenses between individuals equally qualified to hold the licenses and to members of a licensee's immediate family provided the rules assure the wise use and conservation of the fish resources being harvested under the license. The rules shall relate only to those waters in which the number of licenses is limited. The commercial fishing boards, under sub. (7), shall approve or deny transfers of commercial fishing licenses in accordance with the rules promulgated under this section.

(e) *Effective date of licenses.* Each such license shall be effective from July 1 until June 30 of the succeeding year.

(f) *Registered boats.* Any registered boat used by a resident licensee shall be from a port of record in this state and its hailing port shall be a port in this state.

(g) *Reciprocity.* The department may issue commercial fishing licenses to nonresidents of a particular state only up to a number equal to the number of commercial fishing licenses that that particular state issues to residents of this state.

(h) *Catch fee.* The department may require a catch fee which shall be equivalent to the department's direct costs of providing fish for harvest, for species of fish designated by department order, as further consideration for obtaining the license. The fees shall be charged only for those species of fish whose populations are sustained or supplemented through stocking and only for those fish caught by the licensee. All the fees shall be used exclusively to pay for the stocking, including purchase or propagation, of the fish.

(3) **MEANING OF BOAT.** In this section the term "boat" includes all types of watercraft.

(4) **CREW LICENSES.** (a) Any commercial fishing licensee may use licensed crew members when fishing with or without a boat. The number of crew members engaged under a single license shall not exceed 4 when fishing with nets under the ice. The department, upon proper application for crew licenses, may issue with each commercial fishing license no more than 4 crew licenses for the specific purpose of fishing with nets under the ice and the number indicated on the application for the purpose of fishing in open water. Each crew license shall bear the number of the commercial fishing license, the purpose for which intended, the year for which issued and the name of the crew

member to whom the crew license is issued. The crew license shall permit a person to engage in commercial fishing only as a member of a crew of a commercial fisher licensed under sub. (1). There shall be no fee charged for a crew license.

(b) Each member of a crew engaged in the setting, lifting or pulling of nets or other devices set under authority of a commercial fishing license shall carry the crew license on his or her person while so engaged and upon demand of any conservation warden shall exhibit the license. Persons using minnow seines and dip nets used for taking smelt and minnows are exempt from this subsection.

(c) In case of illness or unavailability for good cause of a licensed crew member, an unlicensed person may work on a commercial fishing operation for a period not to exceed 48 hours under a temporary crew identification card, after which time he or she must obtain a crew license to engage in commercial fishing operations. Temporary crew identification cards shall be issued by the department to commercial fishing licensees for use as provided in this paragraph. Prior to use, the commercial licensee shall indicate on the temporary crew identification card the license number and name of the commercial fisher for whom the crew member will be working, the time and date the crew member commences work under the card and the crew member's name, address, description and his or her signature. The card shall be presented, upon request, to a conservation warden and must be in the possession of the crew member at all times while engaged in commercial fishing operations. The commercial fisher issuing the temporary crew identification card to an unlicensed person shall submit the card to the department with the commercial catch report submitted for the period in which work conducted under the card was performed.

(5) **REPORT.** Each commercial fishing licensee shall keep an accurate record and account as to each variety of fish taken and the number of pounds of each fish taken under his or her license and any other information the department requires. The commercial fishing licensee shall report on forms provided by the department, on or before the 10th day of each month, the licensee's records for the preceding calendar month for each month during the license period. If any monthly report has not been received by the department within 10 days after the due date, the department shall so notify the licensee from whom the report is overdue and shall not initiate proceedings under this subsection against the licensee until 10 days following receipt of the notice by the

licensee. Any person who fails to file the required records within 10 days after receiving the notice of failure to file shall forfeit \$50.

(6) INSPECTION. For purposes of enforcement of this section, conservation wardens or department employes duly authorized and designated by the secretary, upon presenting appropriate credentials to the licensee or agent in charge, are authorized:

(a) To enter any building or structure, excluding a dwelling place, in which nets or fish are stored, processed, packed or held, or to enter any vessel or vehicle being used to transport nets or fish when the owner or agent in charge is present or upon 8 hours' notice at other times.

(b) To inspect buildings, structures, vessels or vehicles, all pertinent equipment including nets used or stored in the places to be inspected and any fish stored, processed, packed or held in the places to be inspected.

(7) COMMERCIAL FISHING BOARDS. The Lake Superior and Lake Michigan commercial fishing boards established under s. 15.345 (1) and (2) shall review and consider applications for a transfer of license under this section and shall approve or deny applications on the basis of rules promulgated by the department. The boards shall establish criteria for the allotment of individual licensee catch quotas and shall allot the catch quotas when the department establishes species harvests limits for allocation among licensees. The boards shall assist the department in establishing criteria for identifying inactive licensees. The criteria established for identifying inactive licensees shall be the basis for rules governing the issuance of licenses.

(8) ENFORCEMENT; PENALTIES. (a) Any person who is convicted of violating this section or rules adopted under this section shall forfeit not more than \$1,000 for each violation. In addition to the forfeiture, any person convicted of possessing illegal fish shall be assessed a per fish forfeiture equal to the value of fish under s. 29.65.

(b) Upon conviction of a licensee for fishing with illegal nets, fishing during closed season, or fishing in a closed area, the nets used in the violation shall be seized by the department and confiscated by the court.

(c) Any person licensed under this section, upon his or her 2nd conviction within a 3-year period for possessing illegal fish, fishing with illegal nets, fishing during a closed season, or fishing in closed areas, in addition to the penalties specified in par. (a), shall have his or her license revoked for a minimum of one license year beyond the date of expiration of

the license in effect at the time of the revocation. At the end of the revocation period and upon proper application for reinstatement, the department shall reinstate the license.

(9) APPROVAL OF RULES. This subsection does not apply to emergency rules adopted under s. 227.027.

(a) *Role of legislative council.* Prior to any public hearing on a proposed rule under this section, or if no public hearing is required, prior to notification of the standing committees, the department shall submit the proposed rule to the legislative council for review. The legislative council shall act as a clearing house for rule drafting and cooperate with the department and the revisor to:

1. Review the statutory authority under which the department intends to adopt the rule. The legislative council shall notify the department, the joint committee for the review of administrative rules and the appropriate standing committee when the statutory authority is eliminated or significantly changed by repeal, amendment, court decision or for any other reason.

2. Ensure that the procedures for the promulgation of a rule required by this chapter are followed.

3. Review proposed rules for form, style and placement in the administrative code.

4. Review proposed rules to avoid conflict with or duplication of existing rules.

5. Review proposed rules to provide adequate references to relevant statutes, related rules and forms.

6. Streamline and simplify the rule-making process.

7. Review proposed rules for clarity, grammar and punctuation and to ensure plain language.

8. Review proposed rules to determine potential conflicts and to make comparisons with federal regulations.

(b) *Legislative council to assist standing committees.* The legislative council shall work with and assist the appropriate standing committees throughout the rule-making process. The legislative council may issue recommendations concerning any proposed rule which the department submits under this section.

(c) *Notification of standing committees.* The department shall notify appropriate standing committees when proposed rules under this section are in final draft form by submitting a notice to the presiding officer in each house. Each presiding officer shall refer the notice to one standing committee. The department may withdraw a proposed rule by notifying the presiding officer in each house of the legislature of its intention not to promulgate the rule.

(d) *Form of notice.* The notice shall include the proposed rule in a form complying with s. 227.024 (1).

(e) *Standing committee review.* 1. A committee may be convened upon the call of its chairperson or a majority of its members to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice is referred, direct the department to attend the meeting and hold public hearings to review the proposed rule.

2. The standing committee review period lasts for 30 days after the notice is submitted and if within the 30-day period a standing committee directs the department to meet with it to review the proposed rule, the standing committee review period is extended for 30 days from the date of that request.

3. The department may not promulgate a proposed rule during the standing committee review period unless both committees approve the rule prior to the expiration of that period.

4. Either standing committee may disapprove the proposed rule or part of a proposed rule by taking action in executive session to disapprove the rule within the standing committee review period. If both committees fail to take this action, the proposed rule is not disapproved and the department may promulgate the rule.

(f) *Joint committee for the review of administrative rules.* 1. If either standing committee disapproves a proposed rule or part of a proposed rule, the proposed rule or its part shall be referred to the joint committee for the review of administrative rules.

2. The joint committee review period lasts for 30 days after the proposed rule is referred and the joint committee shall meet and take action in executive session during that period.

3. The department may not promulgate a proposed rule or its part which is disapproved by a standing committee unless the proposed rule is approved by the joint committee for the review of administrative rules or unless a law is properly enacted under subd. 5. The department may promulgate portions of the rule which were not suspended, if the committee disapproved only parts of the rules.

4. The joint committee for the review of administrative rules may reverse the standing committee disapproval by taking action to approve the rule within the joint committee review period. The joint committee may uphold the standing committee disapproval by taking action to disapprove the rule within the joint committee review period. The joint committee may remand the proposed rule to the department for further consideration or public hearings or both.

5. If the joint committee for the review of administrative rules disapproves a proposed rule or portion of the proposed rule, the proposed rule or portion of the proposed rule, may not be promulgated unless a properly enacted law specifically authorizes the adoption of that rule.

History: 1975 c. 94 s. 91 (9); 1975 c. 199, 317; 1977 c. 29, 418.

29.336 Description of nets; use of. (1) ENTRAPPING NETS. (a) *Fyke net.* A fyke net is a composite net consisting of the following parts:

1. One net of a general hoop or circular-like structure commonly called a crib or pot with numbers of hoops holding, encasing or inclosing net webbing.

2. One or more small funnel-shaped nets commonly called tunnels with a large opening at one end and a small opening or throat at the other end through which the fish can pass from the outer part of the net into the crib or pot. This tunnel or these tunnels are attached to the inside of the crib or pot.

3. Two fence-like nets called wings or hearts attached to and extending obliquely outward from each side of the mouth of the net proper.

4. One fence-like net called a leader running from the center of the tunnel outward between the wings in a straight or angular line away from the net proper.

(b) *Drop net.* A drop net is a composite net consisting of the following parts:

1. One net of a general hoop or circular-like structure called a crib or pot with numbers of hoops holding, encasing or inclosing net webbing.

2. One or more small funnel-shaped nets commonly called tunnels with a large opening at one end and a small opening or throat at the other through which the fish can pass from the outer part of the net into the crib or pot. This tunnel or these tunnels are attached to the inside of the crib or pot.

3. One funnel- or hood-shaped net called a tunnel sloping upward and outward from the pot or crib.

4. Two fence-like nets called wings or hearts attached to and extending obliquely outward from each end of the tunnel.

5. One fence-like net called a leader running from the center of the tunnel outward between the wings in a straight or angular line away from the net proper.

(c) *Short tunnel pound net.* A short tunnel pound net is a composite net consisting of the following parts:

1. One boxlike receptacle closed at the bottom and sides and open at the top in which the

fish are finally caught or impounded and variously known as a pound, pot or crib, but generally and commonly known in Wisconsin as a pot.

2. Two fence-like nets called hearts set one on each side of the tunnel mouth and used to form a preliminary inclosure resembling a heart in shape with no cover on the top or bottom.

3. One or more funnel-shaped nets commonly called a tunnel or tunnels with a large opening at one end and a small opening or throat at the other through which the fish can pass from the hearts into the pot.

4. One fence-like net called a leader running from the opening in the hearts in a straight or angular line away from the net proper.

5. All pound nets licensed or operated under this section must have their tunnels located and fastened entirely on the inside of the pot of the same, forming a net that is commonly known and called a short tunnel pound net.

(2) **ENTANGLING NETS.** (a) *Trammel net.* A trammel net is made of 3 sheets of net webbing, one of them of comparatively small mesh and of fine twine being hung between 2 sheets of net webbing of much larger mesh and heavier twine. This net is equipped at the top and bottom with lead or maitre cord, line, or rope to which at the top are attached floats and at the bottom, sinkers. The inner web of this net is of considerably greater fullness than the outside web.

(b) *Gill net.* A gill net is a net designed to entangle fish and made of a single web of fine thread hung and fitted at the top and bottom with lead or maitre cord, line, or rope to which are attached at the top, floats, and at the bottom, sinkers.

(3) **DRAG NETS; SEINE.** A seine is a net made of a circular, square or long webbing of coarse twine hung very full and fitted at the top and bottom with lead or maitre cord, line or rope. To such lines at the top are attached floats, and at the bottom, sinkers. This net is hung with such fullness that it creates or forms a kind of a bag near the center of the net which holds or entraps the fish while the net is being drawn through the waters.

History: 1977 c. 418.

29.34 Net licenses, Mississippi and St. Croix rivers. (1) Licenses which authorize the use of nets in the Mississippi river as limited herein and in that part of the St. Croix river downstream from the dam at St. Croix Falls shall be issued subject to s. 29.09 by the department to any resident applying therefor. This subsection as applicable to the St. Croix

river shall not become effective until Minnesota has enacted similar legislation.

(2) Each such license shall expire on April 15 next succeeding the date of its issue, and shall authorize the use of one or more of the following nets only: Seines, gill nets, bait nets to be used without leads, buffalo nets and frame nets.

(3) The fee for each such license is: For seines, \$20 for the first 500 lineal feet, \$10 for the second 500 lineal feet, \$2 for each additional 100 lineal feet; for gill nets, \$10 for the first 2,000 lineal feet, \$1 for each additional 100 lineal feet; for bait nets, \$20 for license; for buffalo and frame nets \$10 for license and 50 cents for each tag.

(4) No such licensed net shall be used unless it is equipped with metal tags stamped to designate the kind of net and number of the license covering it. One tag shall be securely fastened to each 500 lineal feet, or fraction thereof, of seine; one to each 2,000 lineal feet, or fraction thereof, of gill net, except when lifting or setting; and one to each bait, buffalo or frame net. Such tags shall be furnished by the department to the licensee at the time of issuing the license, on payment of a fee of 25 cents for each tag other than for a buffalo or frame net and 50 cents for each tag on a buffalo or frame net.

(5) Each such licensee shall keep a strict record and account as to each variety of fish and the number of pounds thereof taken by him in his licensed gear and such other information as the department requires; and shall report thereon to the department on or before the 10th day of each month during the license period.

History: 1975 c. 360.

29.343 Slat and trammel net fishing in the Mississippi. (1) Licenses which shall authorize the use of slat nets in the Mississippi river over which this state has jurisdiction between the Minnesota-Iowa boundary line extended and the Wisconsin-Illinois boundary line extended shall be granted for the taking of commercial fish. Each license issued under this section expires on April 15 following the date of issue. The license fee shall be \$20 and each licensee or crew may operate not to exceed 50 nets, but each net before use must have attached thereto a metal tag stamped to designate the kind of net and the number of the license. Tags shall be furnished to the licensee at the time of the issuing of the license on the payment of a fee of 50 cents for each tag. Tags must remain attached to the nets until replaced by renewal tags. No slat net shall be set within 100 feet of any muskrat or beaver house. Any

slat net found in such waters during the closed season and any slat net found on the Wisconsin banks or shores thereof without a tag and showing evidence of being used in the last 5 months shall be seized and held subject to the order of the court or judge under s. 29.05.

(2) Except as herein provided slat net licenses shall be issued to any resident applying therefor and shall be subject to s. 29.09, except that they shall be issued by the county clerk of the counties bordering on such waters. A sufficient supply of slat net tags shall be furnished such county clerks by the department.

(3) The department may issue annual licenses to residents authorizing the use of trammel nets in the Mississippi river over which this state has jurisdiction. The license fee shall be computed on the basis of \$20 per net not to exceed 300 feet and a tag furnished. The license shall be subject to the same provisions and conditions stated in sub. (1).

History: 1971 c. 266.

29.36 Set or bank pole licenses. (1) Set or bank pole licenses which shall authorize the use of not to exceed 5 set or bank poles for taking, catching or killing fish in the inland waters of the state where the use of set lines is permitted shall be issued, subject to s. 29.09, by the county clerk of the county where such set or bank poles are intended to be used, to any resident of the state applying therefor. The fee for such license shall be \$2.25 and it shall expire on December 31 following the date of its issue.

(2) No set or bank pole shall be used unless there is securely attached thereto a metal tag stamped with the number of the license covering the same. Tags shall be furnished by the department to the county clerk, or agents of the same or of the department and by such agency to the licensee at the time of issuing the license.

(3) For the purposes of this section a set or bank pole is defined as a pole equipped with one line and not to exceed 2 hooks of a size not smaller than 3-0 which pole is used for fishing from the banks of lakes or rivers and may be operated in the same manner as a set line.

29.37 Set line licenses; inland waters.

(1) Set line licenses shall authorize the use of set lines and hooks in inland waters in such manner as shall be determined by the department for taking, catching or killing fish, and shall be issued by the county clerk of the county bordering on the waters where such set lines are intended and permitted to be used, to any resident of the state duly applying therefor.

Each such license shall expire on the December 31 next following the date of issue.

(2) The fee for each such license shall be \$10.

(3) No person shall operate any set line unless he has first obtained a duly issued license to do so pursuant to sub. (1) and has securely attached to a buoy or stake at one end of the set line, a metal tag stamped to designate the serial number of the license covering it so that it will be visible above the surface of the water. Such tag shall be furnished by the department to the county clerk, and by the latter to the licensee at the time of issuing the license, on payment of a fee of 25 cents. All fees received by county clerks for such metal tags shall be returned and reported in the same manner as are license fees, as prescribed in s. 29.09, both without deduction.

(4) All fishermen licensed under this section shall file such reports on the amounts and kinds of fish taken as may be requested by the department.

History: 1977 c. 29.

29.38 Clams and mussels. No person shall take, catch or kill any mussel or clam during the close season therefor as established by the department.

29.39 Possession during close season or in excess of bag limit. Except as otherwise expressly provided, no person may have in the person's possession or under control, or have in storage or retention for any person, any game or other wild animal or the carcass or part thereof, during the period beginning July 1 and extending to the last day of the close season therefor in each year, or in excess of the bag or possession limit or below the minimum size for any game, game fish or other wild animal at any time. The open and close seasons and the bag, possession and size limits of the state, province or county in which taken shall apply to game, game fish and other wild animals lawfully killed outside of this state.

History: 1975 c. 360, 421.

29.395 Game, possession in open season. It shall be unlawful to have in possession or under control at any time the carcass or part of the carcass or skin of any protected wild animal showing that the same has been taken during the close season for such animal.

29.40 Possession of deer; heads and skins. (1) **DEER TAGS.** Except as provided under sub. (5), any person having killed a deer shall immediately attach and lock and leave attached and locked to the gambrel of either

hind leg thereof, the deer tag corresponding to license. No person may have in possession or under control, or have in storage or as a common carrier, any deer carcass or part thereof unless it is tagged as required by law.

(2) **HOME CONSUMPTION.** Any person residing in this state, having lawfully killed a deer, may have in his possession and consume the meat thereof in his own family at any time, but must leave the tag attached thereto.

(3) **HEADS AND SKINS.** The head and skin of any deer lawfully killed, when severed from the rest of the carcass, are not subject to this chapter; but no person shall have in his possession or under his control the green head or green skin of a deer during the period beginning 30 days after the close of the open deer season and the opening of the succeeding season, or at any time a deer head in the velvet, or a deer skin in the red, blue or spotted coat.

(4) **ANTLERS REMOVED OR BROKEN.** Any deer taken during an open season for hunting antlered deer only or for hunting antlerless deer only from which the antlers have been removed, broken, shed or altered so as to make determination of the legality of the deer impossible is an illegal deer.

(5) **CAR KILLS.** Any person who while operating a motor vehicle on a highway accidentally collides with and kills a deer may retain possession of such deer if the person has it tagged by any conservation warden, or by any law enforcement officer designated by the department. No fee may be charged for any such tag.

History: 1975 c. 97, 199

29.41 Skins of fur-bearing animals. No person shall have in his possession or under his control the skin of any mink, muskrat, fisher, marten, beaver or otter, showing that the same has been shot or speared, nor the green skin of any fur-bearing animal from the 5th day after the beginning of the closed season for such animal until the end thereof. No person shall have the raw skin of any muskrat, mink, beaver, otter, fisher or marten in his possession at any time unless such person is the holder of a scientist's certificate, fur dealer's license or trapper's license of current issue. No license shall be required of any person breeding, raising and producing domestic fur-bearing animals in captivity as defined in s. 29.579, nor of any person authorized to take muskrats on a cranberry marsh under a permit issued to him by the department.

29.415 Endangered and threatened species protected. (1) **PURPOSE.** The legislature

finds that certain wild animals and wild plants are endangered or threatened and are entitled to preservation and protection as a matter of general state concern. The federal endangered species act of 1973 and the Lacey act together provide for the protection of wild animals and wild plants threatened with world-wide extinction by prohibiting the importation of endangered or threatened wild animals and wild plants and by restricting and regulating interstate and foreign commerce in wild animals and wild plants taken in violation of state, federal and foreign laws. The states, however, must also assume their responsibility for conserving these wild animals and wild plants and for restricting the taking, possession, transportation, processing or sale of endangered or threatened wild animals and wild plants within their respective jurisdictions to assure their continued survival and propagation for the aesthetic, recreational and scientific purposes of future generations. The legislature finds that by eliminating the taking, possession or marketing of endangered species in this state and by establishing a program for conservation and restoration of these endangered or threatened species, their potential for continued existence will be strengthened. The legislature further finds that the activities of both individual persons and governmental agencies are tending to destroy the few remaining whole plant-animal communities in this state. Since these communities represent the only standard against which the effects of change can be measured, their preservation is of highest importance, and the legislature urges all persons and agencies to fully consider all decisions in this light.

(2) **DEFINITIONS.** For purposes of this section:

(a) "Endangered species" means any species whose continued existence as a viable component of this state's wild fauna or flora is determined by the department to be in jeopardy on the basis of scientific evidence.

(b) "Threatened species" means any species of wild fauna or flora which appears likely, within the foreseeable future, on the basis of scientific evidence to become endangered.

(c) "Wild animal" means any mammal, fish, wild bird, amphibian, reptile, mollusk, crustacean, or arthropod, or any part, products, egg or offspring thereof, or the dead body or parts thereof.

(d) "Wild plant" means any undomesticated species of the plant kingdom occurring in a natural ecosystem.

(3) **ENDANGERED AND THREATENED SPECIES LIST.** (a) The department shall by rule establish an endangered and threatened species list. The

list shall consist of 3 parts: wild animals and wild plants on the U.S. list of endangered and threatened foreign species; wild animals and wild plants on the U.S. list of endangered and threatened native species; and a list of endangered and threatened Wisconsin species. Wisconsin endangered species shall be compiled by issuing a proposed list of species approaching statewide extirpation. Wisconsin threatened species shall be compiled by issuing a proposed list of species which appear likely, within the foreseeable future, to become endangered. Issuance of the proposed lists shall be followed by solicitation of comments and public hearing. Wild animals and wild plants shall be deemed approaching statewide extirpation if the department determines, based upon the best scientific and commercial data available to it, after consultation with other state game directors, federal agencies and other interested persons and organizations, that the continued existence of such wild animals and wild plants in this state is in jeopardy.

(b) The department shall periodically review and, following public hearing, may revise its endangered and threatened species list. A summary report of the scientific data used to support all amendments to the state's endangered and threatened species list shall be maintained by the department.

(c) The department may upon the petition of 3 persons review any listed or unlisted wild animal or wild plant if the persons present scientific evidence to warrant such a review, after which the department may by hearing and rule amend the statewide list.

(4) PROHIBITION. Except as permitted by departmental rule or permit:

(a) No person may take, transport, possess, process or sell within this state any wild animal specified by the department's endangered and threatened species list.

(b) No person may process or sell to another person any endangered or threatened species of wild plant.

(c) No person may remove or transport any endangered or threatened species of wild plant away from its native habitat on public property or property which he or she does not own or lease, except in the course of forestry or agricultural practices or in the construction, operation or maintenance of a utility facility.

(5) ENFORCEMENT. (a) Whoever violates this section or any rules promulgated thereunder shall forfeit not more than \$1,000. Whoever intentionally violates this section or any rules promulgated thereunder shall be fined not more than \$1,000 or imprisoned not more than 9 months or both.

(b) Any officer employed and authorized by the department, or any police officer of this state or of any municipality or county within this state, shall have the authority to execute a warrant to search for and seize any goods, business records, merchandise or wild animal or wild plant taken, employed, used or possessed in violation of this section. Any such officer or agent may, without a warrant arrest any person whom the officer or agent has probable cause to believe is violating this section in his or her presence or view. An officer or agent who has made an arrest of a person in connection with any violation under this section may search the person or business records at the time of arrest and seize any wild animals and wild plants, records, or property taken, used or employed in connection with any violation.

(c) Goods, merchandise, wild animals, wild plants or records seized under par. (b) shall be held by an officer or agent of the department pending disposition of court proceedings and thereafter be forfeited to the state for destruction or disposition as the department deems appropriate. Prior to forfeiture, the department may direct the transfer of wild animals or wild plants so seized to a qualified zoological, educational or scientific institution or qualified private propagator for safekeeping with costs assessable to the defendant.

(6) PERMITS. (a) The department shall permit, under such terms and conditions as it may prescribe by rule, the taking, exportation, transportation or possession of any wild animal or wild plant on the list of endangered and threatened species for zoological, educational or scientific purposes, for propagation of such wild animals and wild plants in captivity for preservation purposes, unless such exportation, possession, transportation or taking is prohibited by any federal law or regulation, or any other law of this state.

(b) Any endangered species of wild animal or wild plant which enters the state from another state or from a point outside the territorial limits of the United States and which is being transported to a point within or beyond the state may enter the state and be transported without restriction in accordance with the terms of any federal permit or permit issued under the laws or regulations of another state.

(c) Possession, sale or transportation within this state of any endangered species on the U.S. list of endangered and threatened foreign species shall not require a state permit under par. (a).

(7) CONSERVATION. (a) The department shall conduct research on the endangered and

threatened species of this state and shall implement programs directed at conserving, protecting, restoring and propagating selected state-endangered and threatened species to the maximum extent practicable.

(b) The department may enter into agreements with federal agencies, other states, political subdivisions of this state or private persons with respect to programs designed to conserve endangered or threatened species of wild animals or wild plants. Agreements with private persons under this paragraph may include providing for the movement of an endangered or threatened species to another appropriate habitat, preferably to a habitat located on state-owned or state-leased land.

(8) EXEMPTIONS. This section shall not apply to zoological societies, municipal zoos, or officers or employes thereof.

(9) RULES. Any action by the department to create, amend or repeal a rule under this section after notice, hearing and publication as provided under ss. 227.02 to 227.027, shall be forwarded to the speaker of the assembly and the president of the senate for referral to and review by the appropriate standing committee of each house as determined by the presiding officer of each. For the purpose of reviewing such proposed action on a rule, the standing committee may be convened upon call of its chairperson or of a majority of its members. Each standing committee may, within 40 days from receipt of the proposed action, approve or disapprove the proposed action, but failure of a standing committee to disapprove the proposed action within the review time shall constitute approval thereof. The proposed action shall become effective only upon the approval of both committees. This subsection does not apply to emergency rules adopted under s. 227.027.

History: 1971 c. 275; 1975 c. 365; 1977 c. 370.

This section does not form basis for seeking injunctive relief against proposed relocation of county highway. *Robinson v. Kunach*, 76 W (2d) 436, 251 NW (2d) 449.

29.42 Possession of game birds. (1) WITHOUT LICENSE. No person, other than the holder of a hunting license or scientist's certificate duly issued to him and in force and carried by him on his person, shall have in his possession or under his control any game bird, or animal, or the carcass or any part thereof.

(2) NESTS AND EGGS. No person shall take or needlessly destroy, or have in his possession or under his control, except by virtue of a scientist's certificate, the nest or eggs of any wild bird for which a close season is prescribed in this chapter.

(3) MOUNTED COLLECTIONS. This section shall not permit seizure of nor prohibit possession or sale of lawfully obtained wild birds and animals which are mounted or in the process of being mounted for a private collection.

History: 1973 c. 214.

29.43 Transportation; general provisions.

(1) DURING CLOSE SEASON. Except as otherwise expressly provided, it shall be unlawful for any person to transport or cause to be transported, or deliver or receive or offer to deliver or receive for transportation, any game or game fish or carcass or part thereof at any time other than during the open season therefor and 3 days thereafter. Whenever any game or game fish or carcass or part thereof is offered to any person for transportation at any time other than during the open season therefor and 3 days thereafter, such person shall forthwith notify the department or its wardens, stating full particulars of such offer and by whom made.

(2) TRUNKS; VALISES. No person shall carry with him or under his control in any trunk, valise, or other package or enclosure, at any time on any common carrier, any game or game fish, or carcass or part thereof.

(3) TRANSPORTATION EMPLOYEES. No employe of any railroad, express or other transportation company, and no steward, porter or other employe of any dining, parlor or sleeping car shall have in his personal possession or under his personal control, at any time while on duty, any game or game fish, or carcass or part thereof.

(4) LABELING GAME SHIPMENTS. No person shall transport or cause to be transported, or deliver or receive for transportation, any package or parcel containing any wild animal or carcass or part thereof, unless the same is labeled in plain letters on the address side of such package or parcel so as to disclose the name and address of the consignor, the name and address of the consignee, and the number of pounds of each kind of fish or the number of each variety of other wild animals; or carcasses, or parts thereof, contained therein; and unless the consignor is the owner of such shipment and shall deliver to the common carrier therewith, either personally, or by agent, a writing signed by him personally, stating that he is the owner of the shipment.

29.44 Interstate transportation of game.

No person shall transport or cause to be transported, or deliver or receive or offer to deliver or receive for transportation, into or through this state, any game or game fish or carcass or

part thereof from any other state in violation of the laws of such state relating to the transportation thereof; nor any game or game fish or carcass or part thereof lawfully transported from any other state, nor have the same in his possession or under his control, during the close season or in excess of the limitations prescribed for such animal in this chapter, unless such person shall have in his possession a license to take such animal duly issued to him by the state in which taken; but any person who has lawfully killed a deer in this state may, on his license only, take such deer into any adjoining state, if the laws thereof permit, and ship the same from any point in that state to any point within this state.

29.45 Transportation of deer. (1) No common carrier shall receive for transportation or transport or attempt to transport any deer, or carcass or part thereof, otherwise than as provided in this section.

(2) Each holder of a resident hunting license, sportsmen's license, resident archer hunting license, deer hunting party permit, nonresident general hunting license or nonresident archer's license, may, during the open season for deer and 3 days thereafter, transport or cause to be transported one deer legally taken; but must accompany the same from the point of shipment to the point of destination, whatever the type of transportation.

(3) The place of delivery of any such shipment, however transported, by a resident licensee shall be within the state, and by a nonresident licensee may be either within the state or at his residence without the state.

(4) No bona fide public zoo shall be subject to this section.

29.46 Transportation of game birds. (1) TRANSPORTATION. No common carrier shall receive for transportation or transport or attempt to transport any game bird, or carcass or part thereof except as provided in this section.

(2) RESIDENTS. Any duly licensed resident may transport in his personal possession the legal daily bag limit or possession limit of any game birds for which an open season has been provided to any point within the state.

(3) NONRESIDENTS. Any duly licensed nonresident may transport in his personal possession the legal daily bag limit or possession limit of game birds for which an open season has been provided from any point within the state to any point within or without the state.

(4) MIGRATORY BIRDS. (a) In this subsection "migratory game bird" means any bird

defined as such by the secretary of the interior in the code of federal regulations.

(b) No person may transport any migratory game bird for which open seasons are prescribed, unless the head or one fully feathered wing remains attached to each bird while being transported from the place where taken to the personal residence of the possessor or to a commercial preservation facility.

History: 1975 c. 360

29.47 Transportation of fish. (2) FROM INLAND WATERS. No person shall transport or cause to be transported, or deliver or receive or offer to deliver or receive for transportation, any game fish taken from inland waters other than as follows:

(a) By common carrier: In each period of 7 days, one shipment only of not more than one package, containing not more than the bag limit for one day of game fish of any variety except brook, brown and rainbow trout, and in addition thereto not more than 20 pounds of any game fish for which no daily bag limit is established may be shipped by any resident to any point within the state, or by any nonresident licensee to any point without the state.

(b) By means of other than common carrier: The possession limit, as prescribed by the department, of game fish of any variety may be transported by any resident to any point within the state, or by any nonresident licensee to any point without the state, when accompanied by the owner.

(c) All fish which are subject to a minimum size limit and are transported as provided in this section shall be entirely intact and with no part removed except the scales, gills and viscera.

(d) No box, package or container of fish transported by common carrier shall contain fish of more than one owner.

(3) FROM OUTLYING WATERS. The transportation of fish taken in outlying waters is subject to the following limitations:

(a) No green fish of any variety except lawfully taken suckers shall be shipped from any port located on outlying waters during the closed season for such fish, except the first 3 days thereof.

(b) Pike and pickerel of lawful size and lawfully taken from outlying waters may be transported to points within or without the state without limitation as to quantity; but all such shipments shall be billed only from a port on outlying waters directly to their destination, and shall not be rebilled or reshipped from any other point within the state.

(4) **SHIPMENTS FROM INLAND POINTS.** Any shipment of game fish of any variety originating at any point in this state other than ports located on outlying waters is subject to this section governing the transportation of game fish taken from inland waters.

(5) **FOREIGN SHIPMENTS.** Pike and pickerel in a frozen state, whether dressed or not dressed, legally taken or imported from any foreign country, are not subject to this chapter except as may be provided by department orders; but the person importing, transporting, dealing in, or selling such fish shall keep a separate record of all shipments and consignments thereof, containing the number of pounds, the date received, the name of the consignor, and the name of the carrier transporting the same, which shall be at all times open to inspection by the department or its wardens.

(6) **INJURIOUS FISH.** No live rough fish except goldfish, dace and suckers shall be transported into or within the state at any time without a permit from the department except any person holding a state contract to remove rough fish pursuant to s. 29.62 may transport rough fish taken by him under the authority of such contract.

History: 1971 c. 266.

29.475 Wildlife on Indian reservations protected. No person shall remove or take from any Indian reservation the carcass of any protected wild animal, bird or fish or any part thereof, including the fur, during the close season for such animal, bird or fish without a permit from the department issued under such regulations as it may prescribe.

29.48 Sale of game or fish. (1) Except as otherwise expressly provided, no person may at any time sell, purchase or barter, or offer to sell, purchase or barter, or have in possession or under control for the purpose of sale or barter any deer, bear, squirrel, game bird, game fish taken from waters of this state, or the carcass or part thereof; nor any other wild animal, or carcass or part thereof, during the close season therefor. This section applies, whether such animals were lawfully or unlawfully taken within or without the state.

(2) No fish taken by hook and line from outlying waters, except rough fish, may be sold, bartered or traded in any manner.

(3) The eggs from trout and salmon lawfully taken and possessed, when removed from the fish are exempted from this section.

(4) The tails and skin of any squirrel lawfully killed, when severed from the rest of the carcass are exempted from this section.

History: 1973 c. 315, 333; 1975 c. 360; 1977 c. 418.

29.49 Serving of game to guests. (1) RESTAURANTS, ETC. (a) Except as provided by s. 29.52 no innkeeper, manager or steward of any restaurant, club, hotel, boarding house, tavern, logging camp or mining camp may sell, barter, serve or give, or cause to be sold, bartered, served or given to the guests or boarders thereof:

1. The meat of any deer, bear, squirrel, game bird or game fish taken from inland waters at any time; or

2. The meat of any other game or other wild animal, or carcass or part thereof, during the closed season therefor, whether such meat is of animals lawfully or unlawfully taken within or without the state.

(b) The department may issue permits authorizing the serving of lawfully taken and possessed wild animals at any time.

(2) **FREE LUNCH.** The giving, offering, or affording opportunity to take free lunch in any of the places named in sub. (1) shall be held to be embraced within the prohibitions thereof.

History: 1975 c. 360.

29.50 Propagation privileged. Nothing in the foregoing provisions concerning the protection of wild animals shall affect the operation of state hatcheries, the removal of fish which have died from natural causes or the removal of deleterious fish by the department or under its authority; or the propagation or transportation, collecting and transplanting of fish or fish fry by state authority; nor the transportation of fish into or through this state or out of it by the commissioners of fisheries of other states or of the United States; nor the operation of private fish hatcheries, or the propagation of fish in private waters, or the transportation and sale of fish therefrom as hereinafter provided; but the department, or its agents and employes, shall not furnish fish or fry from state hatcheries to private ponds, private clubs, corporations or preserves, and shall not plant them in waters where the general public is not allowed the rights and privileges enjoyed by any individual.

29.51 State propagation of fish. (1) STATE FISH HATCHERIES. The department shall have general charge of the following matters, and all necessary powers therefor, namely:

(a) The propagation and breeding of fish of such species and varieties as they deem of value.

(b) The collection and diffusion of useful information in regard to the propagation and conservation of fish.

(c) The government and control, care, supply, and repair of the state fish hatcheries and the grounds used therefor, whether owned or leased, and the buildings, ponds, fish car and other apparatus, and all other property belonging to or held by the state for the propagation of fish.

(d) The purchase and establishment and control, in like manner, of new hatcheries when appropriations shall be made by law, and the establishment of such temporary hatching stations as they may deem necessary. With the consent and approval of the department, lands may be acquired by grant, devise or conveyance constituting a voluntary donation to or purchase by the state for the express purpose of enabling it to use such lands for establishing hatcheries and the propagation of fish.

(e) The receiving from the U.S. commissioners of fisheries, from the commissioners of fisheries of other states or from other persons of all spawn, fry or fish donated to the state or purchased, and in the most practical ways, by exchange or otherwise, to procure, receive, distribute and dispose of spawn and fish; to make contracts and carry on the same for the transportation of fish cars, cans, departmental officers and employes by land or water as is most advantageous to the state; and to take such other measures as in their judgment best promotes the abundant supply of food fishes in the waters of the state.

(f) The department shall keep an inventory of the property of the several hatcheries, with the cost of each article, and account in detail and separately of the expenses of each hatchery; also of the distribution of the fish, of maintaining and repairing property and of such improvements as may be ordered.

(2) TRANSPLANTATION OF FISH. The department may take or cause to be taken fish at all seasons of the year from any waters of the state for stocking other waters, or for the purpose of securing eggs for artificial propagation in the state hatcheries. Such fish or eggs shall be taken only under a special permit issued by the department, and then only in the presence of the department or its wardens. Such permit shall specify the kinds of fish that may be taken and the manner in which they may be taken; and shall be subject to the conditions that the holder shall pay for the services of and furnish free transportation and meals on his boat to a competent person approved by the department to spawn the fish and fertilize the eggs, and that such eggs shall be delivered at such place as may be designated by the department and

forwarded to some state hatchery for propagation.

(3) DELIVERY OF SPAWN. Any person fishing in any waters of this state shall deliver, on demand, to the department or its wardens or authorized agents, all kinds of fish, during the spawning season, for the purpose of being stripped of their eggs and milt; and the person receiving them shall, immediately after having stripped the fish, return them to the person from whom received. Any such person shall permit the department, or its wardens, or authorized agents to enter any boats, docks, grounds or other places where such fish may be, for the purpose of stripping the same while alive, and shall render such assistance as may be necessary to expedite the work of mixing the eggs and milt for proper impregnation.

(4) REMOVAL OF SPAWN OR FISH FROM STATE. No person shall remove any fish eggs or live fish from this state except as authorized by law, unless a permit therefor has been issued to him by the department.

(5) UNLAWFUL FISHING BY EMPLOYES. No employe of the department, and no other person, while engaged in catching wild fish from the public waters for purposes of artificial propagation, shall take or have in his possession or under his control any kind of fish other than those he has been directed, by the department, to take therefrom.

(6) ERECTION OF BARRIERS TO EXCLUDE ROUGH FISH. The department may for any period in its discretion erect and maintain or authorize erection and maintenance of a screen or similar barrier in any navigable stream for the purpose of preventing rough fish or other fish found to be undesirable from invading any part of such stream, provided such screen or barrier does not unreasonably interfere with navigation.

29.511 Cold water fish hatchery. In exercising the powers granted to the department under s. 29.51 the department shall purchase and establish fish hatchery facilities specializing in the production of cold water fish. The hatchery shall be located in a county centrally situated and no farther than 40 miles from Lake Michigan. The capacity of the fish hatchery should permit a minimum of 40,000 pounds of fish production.

History: 1977 c. 432.

29.512 Well disruptions caused by Bayfield hatchery operations. (1) Upon complaint in writing by an owner or lessee of land to the department that operation of the well by the department at the Bayfield fish

hatchery has caused damage through disruption of well operations located within 10,000 feet of the fish hatchery well, the department shall inquire into the matter. If it appears to the department that the facts stated in the complaint are true, the department shall pay to the claimant the amount of such damages, as determined by the department.

(2) If the department determines not to pay the claim or if the amount of damages cannot be agreed upon, the claimant may present his claim to the claims board in accord with s. 16.007.

History: 1973 c. 333

29.513 Permit for private management.

(1) Any person or persons owning all of the land bordering on any navigable lake that is completely landlocked may apply to the department for a permit to remove, destroy or introduce fish in such lake.

(2) Upon receiving such application the department shall hold a public hearing in the vicinity of such lake, and if the hearing is favorable the department may issue a permit authorizing the applicant to remove, destroy or introduce fish in such lake.

(3) Such permit shall be subject to such terms, conditions and limitations as the department deems proper. All work done under the authority of such permit shall be under the supervision of the department or its agents, who shall be afforded free access to such lake at all times for such purpose by the permittee. The expenses of such supervision shall be paid by the permittee.

(4) All fish removed from such lake under such permit shall be turned over to the department.

29.515 Trespass to state fish hatchery.

Whoever does any of the following shall be fined not more than \$200 or imprisoned not more than 30 days or both:

(1) Without proper authority, enters upon the grounds of any state fish hatchery for the purpose of killing or taking fish therefrom; or

(2) Without proper authority, kills, takes or catches any fish from any waters or grounds which the person knew or should have known belonged to or were connected with any state fish hatchery; or

(3) Without proper authority to do so, intentionally or negligently injures any fish, or in any manner interferes harmfully with the ponds, streams, troughs or other property of a state fish hatchery.

History: 1975 c. 365

29.52 Private fish hatcheries. (1) Private fish hatchery licenses may be issued by the department under this section.

(2) The owner or lessee of any lands desiring to construct, operate and maintain a private fish hatchery thereon shall file with the department on forms furnished by it a written application for a private fish hatchery license setting forth:

(a) His name and address.

(b) The specific description of the lands to be included in the license.

(c) A description of the water supply to be used in the operation of the hatchery.

(d) A description or diagram showing the ponds, raceways, wells, flumes, dams, buildings and other improvements in connection with the proposed hatchery.

(e) His title or leasehold.

(f) Such additional information that may be required by the department.

(3) After May 12, 1965 private fish hatcheries shall be licensed only under the following conditions:

(a) The water areas included in the licensed area shall be limited to artificially constructed pools, ponds, tanks, flumes and raceways and shall not include any navigable stream, lake, pond or spring unless the department finds after investigation that no substantial public interest exists in such navigable stream, lake, pond or spring and that public or private rights therein will not be damaged.

(b) The supply of water for the hatchery may be obtained from lakes and ponds and flowing streams by the use of flumes, pipes, ditches and pumps, but the water so obtained shall be discharged from the hatchery into the pond, lake or stream from which taken. All flumes, pipes and ditches used to lead water into and from such hatchery shall be equipped at all times with screens so constructed, placed and maintained as to prevent the passage of fish to or from such hatchery.

(4) (a) "Private fish hatchery, Class A" means any operator who:

1. Maintains and operates an artificial fish hatching facility and purchases fish and fish eggs and produces fish eggs therein for sale or trade; or

2. Hatches fish eggs or rears fish so produced for sale or trade; or

3. Sells or trades fish so produced or permits public fee fishing for fish so produced.

(b) "Private fish hatchery, Class B" means any operator, other than Class A, who:

1. Has live fish lawfully in his possession, by purchase or otherwise, for sale or trade; or

2. Rears such fish to a larger size for sale or trade; or

3. Permits public fee fishing for such fish.

(c) "Private fish hatchery, Class C" means any operator, other than Class A or Class B, who:

1. Has live eggs or fish lawfully in his possession by purchase or otherwise; and

2. Maintains and operates an artificial fish hatching facility and hatches eggs but not for sale or trade except that bait minnows so produced may be sold or traded; or

3. Stocks, maintains or holds such live fish eggs or fish for natural propagation, display, or fishing by himself or others, but does not sell or trade such fish eggs or fish and does not permit public fee fishing for such fish; or

4. Stocks, maintains or holds live fish for display or for sale and consumption on the premises; or

5. Sells game fish lawfully in his possession, by purchase or otherwise, to Class A licensees.

(d) "Private fish hatchery, Class D" means any Class A or Class B licensee who transfers fish produced, reared or possessed by him under such Class A or Class B license to his holding or rearing ponds situated on lands owned or leased by him but not included in his Class A or Class B license.

(e) Each such license shall be limited to not to exceed 160 acres of contiguous lands owned or leased by the licensee. This paragraph shall not be construed to limit the number of licenses which may be issued under this section to any person for private fish hatchery operations on his noncontiguous lands.

(f) The fees for such licenses shall be as follows: Private fish hatchery license, Class A, \$50; private fish hatchery license, Class B, \$25; private fish hatchery license, Class C, \$5; private fish hatchery license, Class D, \$5.

(4m) A private fish hatchery license shall be issued and renewed by the department to any person applying therefor who is the owner or lessee of lands suitable for the propagation of fish in nonnavigable waters. Subsection (3) (a) shall not apply to this subsection but the remainder of this section which is not inconsistent with this subsection shall apply.

(5) Upon the filing of the application, the department shall inspect and investigate the same and may hold public hearings thereon. All expenses of the inspection, except the salary of the employe who inspects the hatchery, shall be paid by the applicant. When satisfied that the applicant is the owner or lessee of the lands described and upon finding that all provisions and conditions of this section have been fully complied with, the department shall issue a license to propagate, rear, sell and possess

fish of the kind specified in the license and as provided in this section. All licenses shall expire on December 31 of each year and shall be renewed, subject to this section, upon filing of a verified report with the department within 30 days thereafter, containing the information on the operation of the hatchery requested by the department, together with the license fee.

(6) Fish, fish fry and fish eggs produced in such private fish hatchery shall be taken, caught, killed or otherwise harvested only by the licensee or his bona fide regular employes or by persons expressly authorized by the licensee to do so.

(7) The department may, from year to year, renew any private fish hatchery license issued prior to, and in effect on, May 12, 1965. If a private fish hatchery license is not renewed as provided in sub. (5) or is terminated for any reason, all rights and privileges of the licensee under such license terminate and thereafter the lands and waters which were included in such license shall be subject to all of the provisions of this section if an application for a license hereunder is made which includes any of such lands or waters.

(8) Each package, box or container containing fish propagated and raised in any private fish hatchery shall have attached thereto a label as follows: "Shipped from the private fish hatchery of (Name: Location: License Number:)"

(9) No person shall stock any private fish hatchery with fish or fry obtained from any Wisconsin state-owned fish hatchery, or from any waters of the state except when such fish have been taken in a lawful manner.

(10) No licensee shall sell or deliver any live fish other than trout for planting or stocking in any unlicensed lake, stream or pond unless a permit for such planting or stocking has been issued under s. 29.535.

(11) Any person who, without permission of the licensee, trespasses on any licensed fish hatchery shall forfeit not more than \$200; provided that the licensee gives notice by maintaining signboards at least one foot square, in at least 2 conspicuous places on each 40 acres of the lands included in such license. Prosecutions under this subsection shall be by the licensee.

(12) This section shall not affect any public right of hunting, fishing, trapping or navigation except as herein expressly provided.

(13) This section shall not apply to civic organizations, organizations operating newspapers or television stations or promoters of sport shows when and in connection with publicly

showing or exhibiting or giving demonstrations with trout for periods of not to exceed 10 days.

(14) Any fish brought into this state for the purpose of planting in a private fish hatchery are subject to s. 29.535 (1).

History: 1975 c. 360, 365.

29.535 Introducing fish and game. (1)

(a) Unless the person has a permit, no person may bring into the state for the purpose of stocking or introducing, or to stock or introduce, any fish or spawn thereof or any wild bird or animal of any kind.

(b) Applications for such permits shall be made in writing to the department.

(c) Permits for stocking shall be issued by the department only after investigation and inspection of the fish, birds or animals as it determines is necessary.

(d) Permits to import into the state fish or spawn thereof of the family salmonidae, including trout, char or salmon, may be issued only if the source of the fish or eggs is certified free of such diseases as are designated by the department.

(e) Fish or spawn thereof imported under a permit are subject to inspection by the department and such inspection may include removal of reasonable samples of fish or eggs for biological examination.

(f) The department may seize or destroy, or both, any fish or spawn thereof found to be infected with any disease organisms as are designated by the department.

(2) Nothing in this section shall prohibit the department or its duly authorized agents from bringing into the state for the purpose of planting, introducing or stocking, or to plant, introduce or stock in this state, any fish, bird or animal.

(3) This section shall not apply to civic organizations, organizations operating newspapers or television stations or promoters of sport shows when and in connection with publicly showing or exhibiting or giving demonstrations with brook, brown or rainbow trout for periods of not to exceed 10 days. Brook, brown or rainbow trout used for such purposes shall be obtained only from resident Class A or Class B private fish hatchery operators licensed under s. 29.52 (4). Such private fish hatchery operators shall keep a record of all brook, brown or rainbow trout introduced in or delivered for introduction in any public waters and shall make a report of such introduction or delivery for such introduction to the department on or before December 31 of each year on forms furnished by the department.

History: 1975 c. 360, 421.

29.536 Municipal fish hatcheries. (1) Any city, town or village, upon direction and supervision of the department, may appropriate money for and may acquire, lease or contract for any land, pond, lake or slough for a fish hatchery, and erect, establish, operate and maintain on, in or about such pond, lake or slough, a fish hatchery and fishery for the purpose of hatching, propagating and fishing therein game fish.

(2) Such municipality desiring to erect, establish, operate and maintain a private hatchery and fishery in conformity with this section, shall file with the department a verified declaration designating and describing the pond, lake or slough, which it desires to use for the purpose of hatching, propagating and fishing game fish therein, and a description of all the lands underlying, surrounding or bordering upon such water. Such municipality shall also state in square miles and fraction of square miles the area of such pond, lake or slough, at low water.

(3) Upon the filing of such declaration, the department shall forthwith examine and investigate the same. If upon such examination it shall appear that the pond, lake or slough designated in the declaration is suitable for a fish hatchery it may direct the declarant to acquire, lease or contract for the same. Thereupon such municipality may acquire, lease or contract for the lands underlying, surrounding or bordering upon such water, and thereafter the department shall issue to the municipality a certificate under seal of the department, which shall designate such pond, lake or slough, and certify that it is lawfully entitled to use the same for the hatching, propagation and fishing of game fish therein and to erect, establish, operate and maintain a hatchery and fishery for the purpose of hatching, propagating and fishing therein game fish.

(4) The department shall make rules and regulations for stocking, maintaining and fishing in such hatcheries.

29.54 State propagation of wild mammals and birds. (1)

The department may take or purchase wild mammals and birds and their eggs for propagation. The distribution thereof shall be made throughout the various parts of the state under the supervision and direction of the department, and according to such regulations as it shall prescribe.

(2) No person shall take, remove, sell, or transport from the public waters of this state to any place beyond the borders of the state, any duck potato, wild celery, or any other plant or plant product except wild rice native in said

waters and commonly known to furnish food for game birds.

29.544 Wild rice conservation; licenses.

(1) **TITLE TO WILD RICE.** (a) The legal title to all wild rice growing in any lake of the state, whether meandered or not, is vested in the state for the purpose of regulating harvest, use, disposition and conservation thereof.

(b) The legal title to such wild rice taken or reduced to possession in violation of this chapter or of any rule of the department remains in the state; and the title to any such wild rice lawfully acquired is subject to the condition that upon the violation of this chapter or of any department rule relating to the possession, use, harvest, sale, or purchase thereof by the holder of such title, the same shall revert, ipso facto, to the state. In either case, such wild rice may be seized forthwith wherever found by the department or its agents.

(2) **POWERS OF THE DEPARTMENT.** (a) The department may establish such rules governing the harvest, use and disposition of wild rice growing in the navigable lakes of the state as it deems reasonably necessary for the conservation and wise use thereof. The secretary may designate the opening date for harvesting wild rice in any navigable lake or stream by posting notice of such opening date on the shores of and at places of public access to such lake at least 48 hours before such opening date. Such posting is deemed sufficient notice of such opening date and no other publication thereof is required.

(b) The department shall obtain the advice and recommendations of the tribal council before establishing any rules governing the harvest, use and disposition of wild rice growing within the bounds of an Indian reservation.

(3) **LICENSE REQUIRED.** Every person over the age of 16 and under the age of 65 shall obtain a license and pay a license fee to harvest or deal in wild rice but no license to harvest shall be required of the members of the immediate family of a licensee or of a recipient of old-age assistance or general relief or members of their immediate families. Identification cards shall be issued without fee to any such recipient and to each member of his or a licensee's family. The term "immediate family" includes husband and wife and minor children having their abode and domicile with the parent or legal guardian.

(4) **LICENSES AND FEES.** (a) *Wild rice harvest license.* The fee for each license authorizing the harvesting of wild rice in the navigable waters of the state is \$1. No license shall be

required of helpers of a licensee who participate only in shore operations. Wild rice harvest licenses shall be issued only to residents of this state.

(b) *Wild rice dealer's license.* The fee for wild rice dealers' licenses to buy wild rice within the state for resale to anyone except consumers, or to sell wild rice imported from outside of the state to anyone within the state except consumers, or to process wild rice not harvested by the processor himself for resale by the processor to any other person is \$150 if the amount of wild rice bought, sold or processed by the licensee within the year covered by the license exceeds 50,000 pounds; \$100 if such amount exceeds 25,000 pounds, but does not exceed 50,000 pounds; \$50 if such amount exceeds 5,000 pounds, but does not exceed 25,000 pounds; \$15 if such amount does not exceed 5,000 pounds. For the purposes of this section, 2 1/2 pounds of raw rice shall be deemed equivalent to one pound of processed rice.

(c) *Effective period.* All licenses issued under this section are effective from May 1 to the following April 30.

(5) **RECORDS AND REPORTS.** Each wild rice dealer shall keep a correct and complete book record in the English language of all wild rice bought, sold or processed by him during the period covered by his license showing the date of each transaction, the names and addresses of all other parties thereto, and the amount of wild rice involved, whether raw or processed. Each such record shall be open for inspection by the department or its agents at all reasonable times. All licensed wild rice dealers shall file such reports on their operations as wild rice dealers as are required by the department.

(6) **PRIVATE WATERS.** (a) Nothing in this section shall be construed as giving the state of Wisconsin, the department or its agents the right to control, regulate, manage or harvest wild rice growing on privately owned beds of flowages or ponds.

(b) No person shall, within the boundaries of this state, use or cause to be used any mechanical device of any nature in the harvesting or gathering of wild rice.

(7) **PENALTIES.** Any person violating this section shall be punished pursuant to s. 29.99 (2) and (10).

History: 1975 c. 365 s. 62.

29.547 Ginseng protected. (1) **CUTTING.** No person shall between the first day of January and the first day of August cut, root up, gather or destroy ginseng growing in a wild or uncultivated state, except it be on the person's land.

(2) EVIDENCE. The purchase or sale of green ginseng between the first day of January and the first day of August shall be prima facie evidence of a violation of this section.

(3) PURCHASE WITH KNOWLEDGE. No person shall purchase ginseng, knowing the same to have been cut, rooted up, or gathered between the first day of January and the first day of August.

(4) EVIDENCE. In any prosecution under this section proof that ginseng purchased had been illegally obtained by the vendor shall be prima facie evidence of a violation of this section by the purchaser.

History: 1975 c. 394 s. 15; 1975 c. 421.

29.55 Wild animals for parks. (1) The department may, on application of any park board, grant permit to take, have, sell, barter, or transport, at any time, live wild animals for park purposes.

(2) The department may, on application of any person, grant a permit to such person to take and transport wild animals for propagation within the state, under the supervision of the department or its wardens.

(3) No bona fide public zoo shall be subject to this section.

(4) Notwithstanding any other provision of law to the contrary it is lawful for a bona fide public zoo to have, purchase, barter or sell any live animal, domestic or foreign, to or with another bona fide public zoo, licensed deer farm or reputable animal dealer, within or without this state.

29.56 Game or wildlife refuge. No person shall at any time or in any manner hunt or trap within the boundaries of any game or wildlife refuge established pursuant to s. 23.09 (2) (b) or 29.57, nor have in his possession or under his control therein, any gun or rifle unless the same is unloaded and enclosed within a carrying case. The taking of predatory game birds and animals shall be done as the department directs. All state game or wildlife refuge boundary lines shall be marked by posts placed at intervals of not over 500 feet and bearing signs with the words "Wisconsin Wildlife Refuge".

29.565 Animal wildlife exhibit. The department shall establish an animal wildlife exhibit where wild animals, allowed to roam at will, may be viewed by the public without charge on state owned lands over which the department has jurisdiction, or upon lands donated to the state for the purpose. The boundary of the area shall be marked by posts placed at intervals of not over 500 feet and bearing signs with

the words "Wisconsin Wildlife Exhibit Area". The department shall provide shelters thereon, for the housing of the caretaker, and the sheltering, nursing and caring for orphaned wild animals, which shall be furnished by the department, which may accept private donations of such animals. Such animals shall be sheltered and cared for until they are old enough to release, but by providing food and shelter efforts shall be made to induce the animals to return to the area year after year.

(1) The department shall employ a caretaker with long experience with wild animals, preferably a retired game warden, to manage the exhibit.

(2) No person shall at any time or in any manner hunt or trap within the boundaries of the area, nor have in his possession or under his control therein, any gun or rifle unless it is unloaded and knocked down or enclosed in a carrying case.

(3) The department may promulgate rules for the effective accomplishment of the purposes of this section including the duration of the exhibition season.

29.57 Wildlife refuges. (1) ESTABLISHMENT. The owner or owners of any tract, or contiguous tracts, of land comprising in the aggregate not less than 160 acres located outside the limits of any city or village, may apply to the department for the establishment of said lands as a wildlife refuge. The department may thereupon employ such means as it deems wise to inform itself regarding the premises; and if, upon inspection, investigation, hearing, or otherwise, it shall appear to the satisfaction of the department that the establishment of said lands as a wildlife refuge will promote the conservation of one or more useful species or varieties native within this state, it may by order designate and establish the said lands as a wildlife refuge.

(2) SIGNS. Within 30 days after the date of such order the owner or owners of the said lands shall post or erect signs or notices as required and furnished by the department, proclaiming the establishment of said refuge.

(3) PUBLICATION. No such order shall be effective until at least 30 days after the date of its issue; nor unless the department has caused notice thereof to be published, as a class 3 notice, under ch. 985, in the county embracing the lands. Thereupon the said lands shall be a wildlife refuge, and shall so remain for a period of not less than 5 years, from and after the date of effect stated in said order.

(4) ABSOLUTE PROTECTION. Except as provided in s. 29.56 no owner of lands embraced

within any such wildlife refuge, and no other person, shall hunt or trap within the boundaries of any wildlife refuge, state park or state fish hatchery lands; nor have in his possession or under his control therein any gun or rifle, unless the same is unloaded and enclosed within a carrying case; but deer may be hunted in those state parks or portions thereof designated by the department. Nothing in this section shall prohibit, prevent or interfere with the department, or its wardens, agents or employees, in the destruction of injurious animals.

(5) ANIMALS PROCURED BY DEPARTMENT. The department may place within any such wildlife refuge, for the purpose of propagation, wild animals of any species or variety.

History: 1971 c. 42.

29.571 Horicon marsh game preserve, fur farm, hatchery, dams. (1) A wildlife refuge, game preserve and fur farm shall be established on the Horicon marsh in Dodge county under the supervision of the department.

(2) The department may establish a fish hatchery in connection with such wildlife refuge.

(3) The department shall purchase or acquire by condemnation proceedings the land known as the Horicon marsh, or as much thereof as it deems necessary, and may construct such buildings thereon and provide such equipment as is reasonably required to carry out the purposes of this section.

(4) The department may construct and maintain a dam or dams in or near the city of Horicon, to control and regulate the flood waters on Rock river, and to restore the public waters of Rock river on Horicon marsh to the natural levels existing prior to the private drainage of the same.

(5) All proceeds derived from the fur farm on the Horicon marsh and all other income from said state property shall be paid, within one week after receipt, into the conservation fund of the state treasury.

29.572 Game farms; license. (1) No person shall cause, authorize or permit any lands or waters to be posted with signs of any kind indicating that such lands or waters are licensed under s. 29.52 or 29.573 to 29.578 unless such lands and waters are in fact so licensed.

(2) If any such license expires or lapses and is not renewed, the licensee, landowner or other person having control over such lands or waters shall remove or cause such signs to be removed within 45 days after the expiration or termination of such license.

(3) Applications for the renewal of any license issued under ss. 29.573 to 29.578 shall be filed with the department on or before the expiration date of such license except, that an application for renewal of any such license may be filed not more than 45 days after such expiration date when accompanied by a late filing fee of \$10 in addition to the regular license or renewal fee. If application for renewal of a license is not made as required in this subsection or if a license is terminated for any reason, all rights and privileges of the licensee under such license are terminated upon the expiration of the 45-day period provided in this subsection or on the date of termination whichever occurs first. Thereafter, the lands and waters which were included under such license shall be subject to ss. 29.573 to 29.578.

History: 1975 c. 322 s. 14.

29.573 Pheasant and quail farms; department control; shooting license. (1) The department may issue licenses for shooting preserves and the releasing, shooting, possession and use of pheasants and quail thereon when in the judgment of the department operations under such licenses will result in a net increase in the supply of pheasants and quail in the state, and will otherwise be in the public interest. A fee of \$20 shall be collected for each such license. All such licenses shall expire on June 30 of each year.

(2) No license shall be granted unless the applicant owns or has under lease the area for which the license is granted. Boundaries of the area licensed shall be defined and posted as prescribed by the department.

(3) The department shall determine the minimum number of pheasants and quail to be released for shooting purposes on the licensed premises and fix the time limits during which said birds may be hunted.

(4) (a) Until the release of said pheasants and quail shall have been certified to and accepted by the department it shall be unlawful to shoot, attempt to shoot or to otherwise take pheasants or quail on premises licensed under this section, but when said release shall have been certified and accepted by the department, and when such persons are otherwise lawfully entitled to hunt small game, the licensee and such other persons as the licensee designates may hunt on the licensed premises, have in possession, and dispose of such pheasants or quail by gift.

(b) Each licensee shall keep a correct and complete book record of licensed birds as required by the department on forms furnished by the department. The licensed area and records may be inspected by the department or

its wardens at any time. Copies of the records under oath shall be furnished to the department on request.

(c) No pheasant or quail of the species licensed shall be removed from the said licensed premises until there shall have been securely attached to each bird a seal, the type and design of which shall be designated by the department, and such seal shall remain attached to said birds until they are finally prepared for consumption. Such seal shall be supplied by the department at cost.

(5) Only dead birds which have been killed by shooting shall be removed from premises licensed under this section, and it shall be unlawful to sell or attempt to sell or to buy or attempt to buy any such birds.

(6) (a) The department may make such rules as shall be necessary to carry out the intents and purposes of this section, but no rule shall require that an application or report be notarized.

(b) Any person violating the above provisions shall forfeit not more than \$300.

(7) Any person other than the licensee, agents or persons having permission from the licensee who are otherwise qualified under ch. 29 to hunt thereon, who hunts or shoots pheasants or quail upon any lands described in any such license, is liable for all damage which the person does to said preserve or the pheasants, quail and property thereon, but all actions for such trespass shall be brought by such licensee.

(8) Notwithstanding any other provision of the statutes to the contrary, no person hunting upon a licensed shooting preserve may be required to hold a hunting license for hunting those game species for which the preserve has been licensed under this section.

History: 1975 c. 322, 365, 421.

29.574 Game bird and animal farms. (1)

The owner or lessee of any lands within the state suitable for the breeding and propagating of game, birds or animals as may be approved by the department shall have the right upon complying with this section, to establish, operate and maintain a game bird and animal farm for the purpose of breeding, propagating, killing and selling game birds and game animals on such lands, the acreage and size of which shall be determined by the department. All waterfowl bred, propagated or held on a game bird and animal farm licensed pursuant to this section shall be enclosed within a covered enclosure by the licensee throughout the open season for hunting waterfowl in the state when written or oral notice is given to the licensee by the department or its agents.

(2) Such owner or lessee desiring to establish, operate and maintain a game bird and animal farm in conformity with this section, shall file with the department a verified declaration, describing the lands which such applicant for a license desires to use for the purpose of breeding and propagating such game birds or animals and setting forth also the title and leasehold of the applicant and the number of acres embraced in said tract.

(3) Upon the filing of such declaration the department shall forthwith investigate the same and may require the applicant to produce satisfactory evidence of the facts therein stated. It will be necessary for the licensee to purchase all wild game within the boundaries of the proposed farm of the species designated in the license, and to effect this purpose the department thereupon shall appoint one member, the applicant one member, and these 2 shall select a 3rd member, the 3 to act as a board to go upon the lands embraced within the proposed license and determine as near as possible the number of wild birds and animals of the desired species thereon at the time of the granting of the license. The necessary expenses of all of the members of such board shall be paid by the licensee. Within 30 days after the date of such determination as accepted by the department the licensee shall pay to the department a specified sum as may be determined by the department for those species of wild birds or wild animals on the lands that are desired for propagation purposes, the title of which rests in the state. If upon such examination it appears that the applicant is the owner or lessee of said lands, and the applicant intends in good faith to establish, operate and maintain a game bird and animal farm, the department shall issue a license to the applicant describing such lands, and certifying that the licensee is lawfully entitled to use the same for the breeding, propagating, killing and selling of such game birds and animals thereon according to this section. When such license has been granted, the licensee shall become the owner of all such game birds or animals thereon of the species licensed and of all of their offspring actually produced thereon and remaining thereon, subject however to the jurisdiction of the department over all game.

(3m) No game bird and animal farm license shall be issued after May 24, 1961, other than those already in operation for any area less than one-quarter mile from the exterior boundaries of an approved state or federal wildlife area, public hunting grounds or refuge which is managed in whole or in part for pheasants. All lands under one license shall be

contiguous. This section shall not prohibit the licensing of game bird and animal farms within one-quarter mile of approved state or federal wildlife areas, public hunting grounds, or refuges provided such licensed farms are completely enclosed, including an enclosed top of woven wire with mesh not larger than 6 inches.

(3n) Within 30 days after the date of the issuance of any such license, the licensee shall erect posts or stakes at intervals of not more than 80 rods along the boundary of the land embraced in said license, wherever the same is not already enclosed, and shall post and maintain, upon said posts, stakes or other enclosure, notices proclaiming the establishment of a game bird and animal farm. Such notices shall be furnished by the department to the licensee at cost.

(4) The holder of any such license shall pay an annual license fee of \$10. Such license shall expire on December 31 of each year.

(5) Such license shall be prima facie evidence in all courts and proceedings of the lawful right of the licensee therein named, his or its successors or assigns, for the term of the license, to establish and operate such a game bird and animal farm upon said premises, and shall entitle the licensee therein named or his successors or assigns, to the exclusive right for and during said term to breed and propagate such game birds and animals thereon, and to the exclusive and sole ownership of any property in all such licensed game birds and animals caught or taken therefrom.

(6) (a) Such game birds and animals, except waterfowl, may be taken at any time in any manner by persons qualified under this chapter to hunt thereon. Waterfowl may only be taken pursuant to the rules adopted by the department and in effect governing the hunting of waterfowl, except that upon written application the department may authorize the taking of hand-reared mallards at any time within the boundaries of a licensed game bird and animal farm in numbers not to exceed those liberated or propagated when it appears to the satisfaction of the department that only mallards liberated or propagated by the licensee will be taken on such farm. The applicant shall certify to the department that mallards liberated or propagated for shooting were produced and reared in captivity and are more than 2 generations removed from the wild. Hand-reared mallards shall not be released for shooting purposes unless such mallards have first been identified as the department directs. Mallards confined to wholly enclosed pens or buildings may be taken within such pens or buildings at any time and in any numbers. No such game

bird or animal or mallards killed on such farm and no live game bird or animal or mallards to be consumed as food shall be removed therefrom until there has been securely fastened to each bird or animal a band or tag furnished by the department to the licensee at cost. Such band or tag shall remain attached to the bird or animal until prepared for consumption. Live birds and animals may be sold or transported. Each container carrying such live birds or animals shall have attached thereto a band or tag as set forth above. Live birds or animals acquired from the licensee to be consumed as food shall not be kept in a live condition by any person beyond 48 hours from the time such birds or animals were acquired from such licensee. Correct and complete book records of sales and purchases of live birds and animals disclosing the time and date of such sales and whether or not such live birds and animals were acquired to be consumed as food shall be kept by the licensee. Certified copies of such records shall be furnished by the licensee to the department on request, on forms furnished by the department.

(c) Whenever any such bird or animal shall be consumed for food, the tag attached to such bird or animal shall be kept in evidence until such bird or animal is consumed.

(6m) Notwithstanding any other provision of the statutes to the contrary, no person hunting upon a game bird and animal farm shall be required to hold a hunting license.

(7) Any person other than the licensee, his bona fide regular employes, or persons having permission from the licensee who shall hunt or shoot game birds or animals upon any lands described in any such license, shall be liable to the licensee in the sum of \$100, in addition to all damage which he may do to the farm or to the game birds or animals, and property thereon, but all actions for such trespass shall be brought by such licensee.

(8) Each licensee shall keep a correct and complete book record of licensed animals and birds as required by the department of natural resources on the forms furnished by the department. The licensed area and records may be inspected by the department or its wardens at any time. Copies of the records under oath shall be furnished to the department on request.

(9) Any person who violates this section shall forfeit not more than \$50.

History: 1975 c. 94 s. 91 (11); 1975 c. 199, 322, 365, 422.

29.575 Fur animal farms. (1) The owner or lessee of any lands suitable for the breeding and propagating of fur animals may, upon complying with this section, establish, operate

and maintain on such lands a fur animal farm, for the purpose of breeding, propagating, trapping and dealing in fur animals. Fur animal farms as licensed under this section shall be of one or more of the following categories as specified in the license:

- (a) Beaver.
- (b) Muskrat.
- (c) Mink, except domestic mink as defined in s. 29.579.
- (d) Otter, raccoon and skunk.

(2) Such owner or lessee desiring to establish, operate and maintain a fur animal farm, in conformity with this section, shall file with the department a verified declaration describing the lands which such applicant desires to use for the purpose of breeding and propagating fur animals and setting forth the title or leasehold of the applicant and the number of acres which will be maintained as a fur animal farm. Acres under one license need not be contiguous.

(3) Upon the filing of such declaration the department shall investigate and may require the applicant to produce satisfactory evidence of the facts stated in the declaration. If it appears that the applicant is the owner or lessee of the lands, and that the applicant intends in good faith to establish, operate and maintain a fur animal farm, the department shall issue a license to the applicant. The license shall describe the lands and shall certify that the licensee is entitled to use the same for dealing, breeding, propagating and trapping fur animals on the land described in the license.

(4) Upon issuance of the license, the department shall appoint one person, the applicant shall appoint one person, and these 2 shall select a 3rd person to enter the lands and determine the number of fur animals thereon at the time of the granting of the license. The necessary expenses of these persons shall be paid by the licensee. Within 10 days after the date of such determination, the licensee shall pay to the department \$2.50 for each beaver, 50 cents for each muskrat, \$2.50 for each mink, \$2.50 for each otter, \$1 for each raccoon, and 50 cents for each skunk so found on such lands. Only those animals to be licensed under the fur animal farm are to be paid for. When such payment has been made the licensee shall become owner of such fur animals on said lands and of all of their offspring remaining thereon. The licensee shall have the right to manage and control said lands and the licensed fur animals thereon, to take the same at any time or in any manner which the licensee sees fit and deems to the best advantage of the licensee's business,

and to sell and transport at any time said fur animals or the pelts taken from them.

(5) The holder of such license shall pay an annual license fee of \$10.

(6) Within 30 days after the date of the issuance of any such license, the licensee shall erect posts or stakes at intervals of not more than 80 rods along the boundary of the land embraced in the license wherever the lands are not already enclosed, and shall post and maintain upon the posts, stakes or other enclosures notices proclaiming the establishment of a fur animal farm. Such notices shall be furnished by the department to the licensee at cost.

(7) Such license shall be prima facie evidence in all courts and proceedings of the right of the licensee, successors or assigns, for the term of the license, to establish and operate a fur animal farm upon the premises, and entitles the licensee, successors or assigns, to the exclusive right during the term to breed and propagate fur animals thereon, and to the exclusive and sole ownership of any property in all fur animals caught or taken. Such licenses shall expire on December 31 of each year.

(8) Any person, other than the licensee or agents, who hunts or traps fur animals upon any lands described in any such license shall be liable to the licensee in the sum of \$100, in addition to all damage which the person does to the farm or to the fur animals and property, but all actions for such trespass shall be brought by such licensee.

(9) Each licensee shall keep a correct and complete book record of licensed animals as required by the department on the forms furnished by the department. The licensed area and records may be inspected by the department or deputies at any time. Certified copies of such records shall be furnished to the department on request.

(10) Nothing in this section shall be construed to affect any public right of hunting, fishing or navigation except as herein expressly provided.

History: 1975 c. 94 s. 91 (11); 1975 c. 199, 322, 421.

29.578 Deer farms; venison serving permits. (1) The owner or lessee of any lands within this state suitable for breeding and propagating of deer shall have the right upon complying with this section to establish, operate and maintain a deer farm for the purpose of breeding, propagating, killing and selling deer on such lands, the acreage and size of which shall be determined by the department. Such deer farm must be completely inclosed by a fence. Any streams whether meandered or not, flowing into or out of an inclosed deer farm,

and of a swampy, marshy or boggy character and not navigable in fact at all times of the year by ordinary boats or pleasure craft, and which are not of any substantial beneficial use to the public, shall not be considered navigable so as to prevent erection and maintenance over them, of the type of fence prescribed and permitted by this section.

(2) Such owner or lessee desiring to establish, operate and maintain a deer farm in conformity with this section shall file with the department a verified declaration, describing the lands which such applicant for a license desires to use for the purpose of breeding and propagating deer and setting forth also the title or leasehold of the applicant and the number of acres embraced in said tract.

(3) Upon the filing of such declaration the department shall forthwith investigate the same and may require the applicant to produce satisfactory evidence of the facts therein stated. Upon receipt of such declaration the department shall determine as near as possible the number of deer on such lands. The necessary expenses of such investigation shall be paid by the licensee.

(4) The licensee shall pay to the department \$25 for each deer so found on such lands. When such payment has been made and the license issued, the licensee shall become the owner of all deer on said lands and of all their offspring. He shall have the right to manage and control said lands and the deer thereon, to kill and sell the same as provided by this section. If upon examination it shall appear that the applicant is the owner or lessee of said lands, and that the applicant intends in good faith to establish, operate and maintain a deer farm, the department may inform him that as soon as he has built a suitable deer fence around the area to be included within the license, it will issue the same. Said deer-tight fence shall be built in accordance with specifications prescribed by the department; provided, the department may issue a license for such deer farms heretofore established if the fence actually inclosing said farm is in fact sufficient to hold deer therein. After the complete installation of such fence and after the department has satisfied itself that it is satisfactory and complies with the law, it may issue a license to the applicant describing such lands, and certifying that the licensee is lawfully entitled to use the same for the breeding, propagating, killing and selling of deer thereon according to this section.

(5) The holder of any such license shall pay an annual license fee of \$25. Such license shall expire on December 31 of each year, but shall

be renewed each year if the licensee has not violated any of the provisions under which it was granted.

(6) Such license shall be prima facie evidence in all courts and proceedings of the lawful right of the licensee therein named, his or its successors or assigns, for the term of the license, to establish and operate a deer farm upon said premises, and shall entitle the licensee therein named or his successors or assigns, to the exclusive right for and during said term to breed and propagate deer thereon, and to the exclusive and sole ownership of any property in all deer caught or taken therefrom.

(7) Deer on a deer farm shall be killed only by the licensee or bona fide regular employes except that on licensed deer farms, not less than 10 acres in area, deer may be killed by persons expressly authorized by the licensee who are otherwise qualified under this chapter to hunt deer except that no person hunting upon a licensed deer farm shall be required to hold a hunting license for deer; and all such deer killed shall be distinctly tagged with a tag to be furnished by the department to the licensee at cost not exceeding 5 cents each. The licensee shall pay to the department \$1 for each deer so killed. Before any deer on a licensed deer farm shall be killed, the licensee shall notify the department or one of its representatives in advance of the taking of such deer, and the department or its representatives shall make acknowledgment of receipt of said notice and such acknowledgment when received by the licensee shall be authority for taking deer. The department or any of its duly authorized representatives may be present while the taking of such deer is in progress.

(8) After a deer is so killed and tagged the entire carcass only shall be sold and transported, except as provided in sub. (14). The tag must remain on the carcass while in transit and until same is consumed.

(9) Such licensee may sell and transport live deer providing that the department or one of its representatives be notified in advance of the shipment of such deer, and the department or its representatives shall make acknowledgment of receipt of said notice and such acknowledgment when received by the licensee shall be his authority for shipping deer. The licensee shall pay to the department \$1 for each live deer sold, and each crate or conveyance carrying such live deer must have a special tag or tags attached thereto for each live deer transported therein, showing that it is a deer from a deer farm. The data on such tag or tags shall be entered in ink or indelible pencil and such tag or tags shall be retained by the

purchaser of said live deer. Such tags shall be furnished by the department, its wardens or agents.

(10) Any person other than the licensee or his employes who shall hunt or trap deer upon any lands described in any such license shall be liable to the licensee in the sum of \$100 in addition to all damage which he may do to said farm or to the deer and property thereon, but all actions for such trespass shall be brought by such licensee.

(11) Each license shall be accepted by the licensee upon the condition that he will comply with this section and with all provisions of law and that he will honestly operate said deer farm for the purpose of propagating deer; that the title to the deer in the inclosure for which a license has been granted and for which the applicant has paid the state at the rate of \$25 per deer, shall be conditional upon the applicant and licensee honestly and fairly complying with this section and provisions of law relating to the operation of deer farms; and in the action to revoke the license of said licensee, or to establish his unfitness to further operate said deer farm, the court, in the judgment, in the event it is determined that the applicant and licensee has violated this section and the provisions of law relating to the operation of deer farms, shall provide that the title to all of the deer within said inclosure together with all of the increase therefrom be forfeited to the state; that the said tract of land shall not be used for a deer farm for a period of 5 years and until a new license therefor, after said 5 years, has been issued by the department as provided in this section; that the department shall within 30 days of the notice of entry of judgment enter upon said tract and open the said fences in such a manner as to give the inclosed animals free egress and may drive the said animals out of the inclosure if in the opinion of the department it is for the best interests of the state; said lands for which said license has been forfeited may be used by the owner thereof for all lawful purposes except the propagating of deer during said time, and during said 5 year period said lands shall be a sanctuary and no hunting or trapping of any kind or character shall be practiced therein or thereon. The department shall in such event duly post notices thereof at intervals of 10 rods around the entire tract.

(12) On or before January 1 of each year, each such licensee shall make a report to the department, covering the period from January 1 to December 31 of the previous year, upon blanks furnished by the department, stating the number of deer killed and sold and live deer

sold during said period, the names and addresses of the persons to whom the same were sold and the dates of shipment.

(13) The department or its wardens shall have the right and power to inspect such deer farms or the books of such deer farms at any and all times when they may think the need requires it.

(14) (a) Any person who may wish to barter, sell or otherwise deal in the carcasses or parts of deer taken from deer farms must first purchase from the department a license for so doing. The fee for such license shall be \$50 for each year and shall expire on December 31. Each carcass or part thereof of such deer that may be sold by such person under such license must have a distinctive tag attached thereto that will be furnished them by the department at 5 cents each. Special permits for a limited time to retail a venison lawfully killed and sold in the carcass to any retailer of meats may be issued by the department, the fee for which shall be \$5 for each deer so sold.

(b) Any person may serve venison obtained from a deer farm licensed under this section provided he has a permit therefor from the department. The application for the permit shall be in such form and require such information as the department requires and be accompanied with a permit fee of \$5. If the department after investigation is satisfied that the application is satisfactory it shall issue a serving permit conditioned as follows:

1. It shall be valid for a period of not to exceed 30 days from the date of issuance.

2. It shall be exhibited in a conspicuous place in the premises where such venison is retained and served.

3. It shall contain the name and address of the applicant together with the name and address of the premises where the venison will be retained and served, together with the source of the venison, the sex, approximate weight and deer farm tag numbers of the carcass, the deer farm tag to remain with the venison until consumed.

4. The permittee agrees to record immediately upon possession all additional venison, purchased, possessed or served during the permit period in the space provided therefor on the permit.

5. The permittee agrees that the department or its wardens shall have the right to inspect the premises where such venison is retained or served.

(c) Each permittee under par. (b) shall file a verified report to the department within 30 days after the expiration of the permit containing such information regarding the operations

under the permit as the department requires on forms furnished by the department.

(15) Any person who hunts within the enclosure of a deer farm without the permission of the owner or who otherwise intentionally or negligently violates this section shall be fined not more than \$200 or imprisoned not more than 90 days, or both.

(16) The department may sell to owners of licenses hereunder for propagating purposes, fawns and deer at a price to be fixed by the department not exceeding \$25 each, and the department is directed to make all necessary orders, rules and regulations not inconsistent herewith, carrying out the provisions hereof to the end that the industry may be encouraged.

History: 1975 c. 322, 365, 421.

29.579 Domestic fur-bearing animal farms. The breeding, raising and producing in captivity, and the marketing, by the producer, of foxes, fitch, nutria, marten, fisher, mink, chinchilla, rabbit or caracul, as live animals, or as animal pelts or carcasses shall be deemed an agricultural pursuit, and all such animals so raised in captivity shall be deemed domestic animals, subject to all the laws of the state with reference to possession, ownership and taxation as are at any time applicable to domestic animals. All persons engaged in the foregoing activities are farmers and engaged in farming for all statutory purposes.

29.582 Trespass on fox or mink farm punished. (1) Any person owning or breeding silver, silver black, black foxes, or mutations thereof, or mink which have been raised in captivity shall have the same property rights therein as enjoyed by owners or breeders of domestic animals.

(2) Whenever the owner of any premises upon which silver, silver black, black foxes, or mutations thereof, or mink which have been raised in captivity are being bred or raised shall maintain large sign boards with the following inscription painted in large letters on the side facing from the enclosure: "Fur Farm--Keep Out" in such manner and size as to be legible for a distance of 100 feet, at points not more than 200 feet apart, along the boundary lines of such premises, no person, without the consent of such owner, shall enter upon such premises and approach within a distance of 150 yards from any point of an outer fence or enclosure within which the dens or pens of such animals are located. Maintenance of signs herein provided shall not be construed as posting, nor prevent recovery of damages, under s. 29.595 (2). Any person violating this subsection shall

be fined not more than \$200, or imprisoned not more than 90 days or both.

(3) No person, without the permission of the owner of an enclosure within which silver, silver black, black foxes, or mutations thereof, or mink which have been raised in captivity are kept for breeding purposes, may enter such enclosures. Any person intentionally violating this subsection shall be fined not more than \$200 or imprisoned not more than 30 days or both.

(4) The department is not required to enforce this section.

History: 1975 c. 365

29.585 Wildlife exhibit licenses. (1) The department may grant licenses for wildlife exhibits which are defined as any place where one or more live wild animals are kept in captivity for the purpose of exhibition or for advertising purposes. The form of application and license shall be prescribed by the department.

(2) (a) "Wildlife exhibit" does not include the exhibition of any live wild animal by any educational institution, state department, public zoo, park or garden, circus or theatrical exhibition or any such exhibition sponsored by any organization with the approval of the department.

(b) The term "wild animal" as used in this section means any mammal or bird of a wild nature as distinguished from domestic animals under the common law or under the Wisconsin statutes whether or not such mammal or bird was bred or reared in captivity.

(3) No wildlife exhibition license shall be granted by the department until it is satisfied that the provisions for housing and caring for such wild animals and for protecting the public are proper and adequate and in accordance with the standards therefor established by the department.

(4) The department shall adopt and enforce rules and regulations for the housing, care, treatment, feeding and sanitation of wild animals kept in wildlife exhibits and for the protection of the public from injury by such wild animals.

(5) It is unlawful for any person to keep any live wild animal in captivity for the purpose of exhibition or for advertising purposes or to have any wild animal in his custody or under his control for such purpose, unless a wildlife exhibit license has been issued by the department. Such license shall be required in addition to game bird and animal farm, deer farm or fur farm licenses required by statute for the possession, breeding, propagating or dealing of

such wild animals when such licensed farms are wildlife exhibits as defined in sub. (1). The fee for such license shall be \$10 and such license shall expire annually on December 31.

(6) Each licensee shall file an annual, verified report with the department within 30 days after the expiration of such license containing such information on the operation of the wildlife exhibit as the department may require and on forms furnished by the department.

29.586 Humane, adequate and sanitary care of wild animals.

(1) The department has the authority to examine all lands, together with buildings, licensed as game bird and animal farms, deer farms or fur farms to determine that all wild animals held in captivity on such licensed farms are treated in a humane manner and confined under sanitary conditions with proper and adequate housing, care and food.

(2) The department may order any licensee to comply with standards prescribed in such order for the housing, care, treatment, feeding and sanitation of wild animals held in captivity by the licensee.

(3) Any such licensee who fails to comply with such order of the department within 10 days of its issuance will be subject to penalties provided in s. 29.99 (4).

History: 1975 c. 365 s. 62.

29.59 Beaver built structures causing damage.

(1) The department or persons authorized by the department shall have the power to remove all structures built by beavers causing damage upon consent of the owner or occupant of the land on which they are located. The owner or occupant of the land who fails to give such consent to the department after receiving notice and solicitation shall be liable for all damages arising thereafter from beaver structures.

(2) The department shall proceed under sub. (1) upon the complaint of a drainage commissioner that a beaver dam blocks a drainage ditch.

History: 1975 c. 128.

29.594 Damages caused by wild ducks, geese or sandhill cranes.

(1) Any owner or grower of crops may claim damage to such crops caused by wild ducks or geese or sandhill cranes by filing a verified statement of claim within 14 days after such damage occurs. The claim shall certify that the damage was caused by wild ducks or geese to seedings or crops on agricultural lands. If the condition causing the damage is in the nature of a continuing trespass or depredation, the claimant may file a

notice of claim within 14 days from the time such damage first occurs, stating the nature of the condition and notifying the department that damages will be claimed as soon as the total damage can be ascertained. Such notice of claim shall preserve the right of the claimant to file a verified statement of claim until 10 days after the damages can be determined or the following June 15, whichever occurs first. If the claimant cooperates with the department to prevent or alleviate the damage, the claimant shall be entitled to recover actual damages but not to exceed \$10,000. No person may recover under this section:

(a) For damages to unharvested sweet corn caused by wild ducks or geese;

(b) For damages to crops not harvested in accordance with normal agricultural practices;

(c) For losses of normal field waste remaining after harvesting;

(d) If the damage occurred on a farm where any crops are planted or manipulated to attract wild ducks or geese or sandhill cranes;

(e) If the damage occurred on lands under state or federal control;

(f) If the damage was caused by wild ducks or geese during the open shooting season for wild ducks or geese in the area, unless the number or concentration of hunters is limited by law in or near the area where the damage occurs; or

(g) If the damage occurred on lands where public hunting is prohibited by the landowner or occupant.

(2) The department shall investigate all claims and make a decision on the amount of the damage. In all cases where the department and claimant cannot agree upon the amount of the damage, the department's decision is subject to review under ch. 227.

(3) All claims for damage caused by wild ducks or geese or sandhill cranes shall be filed with the department and shall be paid on a pro rata basis at the end of each fiscal year from the funds provided under s. 20.370 (1) (ue).

History: 1975 c. 8, 181, 199, 422; 1977 c. 449.

29.595 Damages caused by deer and bear.

(1) DEER OR BEAR CAUSING DAMAGE. Upon complaint in writing by an owner or lessee of land to the department that deer or bear are causing damage thereon the department shall inquire into the matter; and if upon investigation, or otherwise, it shall appear to the department that the facts stated in each such complaint are true, the department by its agents may capture or destroy such deer or bear, and dispose of the same as provided in s. 29.06.

(2) CLAIMS FOR DEER OR BEAR DAMAGE. (a) Any person claiming damage to property caused by deer or bear shall file a verified statement of claim with the department within 10 days from the time such damage is alleged to have been done. Such claim shall certify that the damage was caused on agricultural lands to crops, orchard trees, nursery stock, apiaries or to farm animals and poultry or on silvicultural lands to trees grown for sale to or by Christmas tree dealers licensed under s. 134.60, except that no claimant may recover on claims for damages to crops which are not harvested in accordance with normal agricultural practices. However, if the condition causing damage is in the nature of a continuing trespass, the claimant may, in lieu of a claim, file with the department, within 10 days from the time such damage first occurs, a notice of claim, stating the nature of the condition and that damages will be claimed as soon as the total damage can be ascertained. In such case, the claimant is entitled to recover the damages sustained during the continuance of the condition but not beyond 6 months after the date of the notice, upon filing a verified statement of claim with the department within 10 days after the abatement of the condition but not after 6 months of the date of the notice if the condition persists. No person may be entitled to damages under this section who has lands posted against trespass or hunting.

(b) The department shall investigate and settle all claims. In all cases where the department and the claimant cannot agree upon the amount of the damage the department's decision is subject to review under ch. 227.

(c) All claims for deer and bear damage shall be filed with the department and not to exceed 80% of such claims shall be paid in accordance with, and from the funds provided for such purposes under, s. 20.370 (1) (ue).

(3) DEER FENCES. (a) If, upon careful examination by the department, it appears that a deer proof fence can be built or that other appropriate preventive measures can be taken at less cost than the estimated damage that might be done by deer in any area inhabited by deer, the department may pay any part or all of the costs of a deer proof fence around such area or any part thereof, or take such other measures as it may deem advisable and necessary, including issuing deer proof fencing contracts as provided in par. (b), to prevent deer damage in such area. Expenditures under this subsection shall be charged against the funds provided by s. 20.370 (1).

(b) If the department, upon careful examination, determines that a deer proof fence is

necessary around an area of land the department shall notify the owner or lessee of the land by registered mail of the terms and conditions of a deer fencing contract and the consequences of failing to accept a deer fencing contract. Failure of the landowner or lessee to accept the department's deer proof fencing contract shall make such land ineligible for deer damage payments provided under sub. (2).

History: 1975 c. 236, 310, 421; 1977 c. 29, 187, 418.

29.596 Wild animals causing damage.

Upon complaint in writing by an owner or lessee of land to the department that wild animals are causing damage thereon the department shall inquire into the matter; and if upon investigation, or otherwise, it appears to the department that the facts stated in each such complaint are true, the department, by its agents, may capture or destroy such wild animals or issue permits to the owner or lessee of the land to capture or destroy such wild animals. All such wild animals captured or destroyed by permit shall immediately be turned over to authorized department agents who shall dispose of them as provided in s. 29.06.

29.60 Use of poison and explosives; pole traps.

(1) Except as provided by s. 29.29 (4) it shall be unlawful to use baits containing poison of any description in any forests, fields or other places where it might destroy or cause the destruction of wild animals or birds, and the possession of any such poison or poison baits in a hunting or trapping camp or on any person while hunting or trapping shall be prima facie evidence of a violation hereof.

(2) No person may take, capture or kill or attempt to take, capture or kill any wild animal with the aid of dynamite or any other explosive or poison gas, or set any dynamite or other explosives near or on any beaver or muskrat houses. Possession or control of explosives or poison gases in places described in sub. (1) is prima facie evidence of intent to violate this subsection. Any person who violates this subsection shall be fined not more than \$300, or imprisoned not more than 30 days or both.

(2m) It shall be unlawful to take, capture or kill or attempt to take, capture or kill any bird by setting or operating any trap or device designed, built or used to capture birds on a pole, post, tree stump or any other elevated perch more than 3 feet above the ground.

(3) Nothing in this chapter shall prevent the department or its wardens from using dynamite or having dynamite in possession near beaver houses or dams for the purpose of

removing beaver dams when the beavers are causing damage to property owners.

History: 1973 c. 317; 1975 c. 52, 365

29.605 Giving away of predatory animals to public zoos. (1) It is lawful for the department to give, present, or turn over alive, for educational purposes, to any bona fide public zoo any predatory animal.

(2) Any predatory animal that has been given to, presented, or turned over to any bona fide public zoo under this section shall not be sold, bartered or given away by such zoo in any manner except that such animal may be returned to the department.

29.62 Removal of injurious rough fish.

(1) The department may take rough fish by means of seines, nets or other devices, or cause rough fish to be taken, from any of the waters of this state.

(3) Whenever the department takes rough fish under this section it shall dispose of the same as the department shall direct.

History: 1971 c. 266; 1977 c. 418.

29.623 Control of detrimental fish. When the department finds that any species of fish is detrimental to any of the waters of the state it may, by rule, designate such species of fish and specify the waters in which such fish are found to be detrimental. Thereupon the department may remove such fish from the waters specified or cause them to be removed therefrom.

History: 1975 c. 360.

29.625 Permit to take rough fish. (1)

Permission may be granted to any person by the department upon such terms and conditions as it may require to take carp and other undesirable rough fish, which are detrimental to game fish in the following bays or harbors in Door county, namely: Sturgeon Bay, Little Sturgeon Bay, Riley's bay, Egg harbor, Fish creek harbor, Eagle harbor, Bailey's harbor, Mud bay, North bay, Rowley's bay, and Washington harbor, Jackson harbor and Detroit harbor in Washington Island.

(2) A person having a contract to take rough fish under s. 29.62 or 29.625 may be authorized by the department to erect and maintain a temporary pond in any navigable water pending the sale of such fish, provided that such pond does not unreasonably interfere with navigation or other public rights in such water.

29.626 Trespass on riparian land. In an action against a person for damages sustained from trespassing on lands bordering streams

stocked by the consent of owner of such lands, with fish received from a state hatchery, where such damage shall exceed \$2, the trespasser shall be liable for double the amount of such damage and all the taxable costs; and where the damage sustained is \$2 or less the trespasser shall be liable for the amount of such damage and the costs not to exceed the amount of the damage.

29.64 Resisting conservation warden.

Any person who assaults or otherwise resists or obstructs any conservation warden in the performance of duty shall be fined not more than \$500, or imprisoned not more than 9 months, or both.

History: 1975 c. 365, 421.

29.641 False impersonation of warden.

Any person who falsely represents himself or herself to be a conservation warden or who assumes to act as such without having been first duly appointed as such, shall be fined not more than \$100 or imprisoned not more than 90 days or both.

History: 1975 c. 365.

29.642 Fraud in obtaining license. (1)

Any person who makes a false statement concerning his or her citizenship or residence, and thereby obtains in any manner any license issued pursuant to this chapter as only citizens or residents of this state are entitled to, shall forfeit not more than \$200.

(2) Any person who obtains any license pursuant to this chapter during the period of time that such license has been revoked by any court shall be fined not more than \$200 or imprisoned not more than 90 days or both.

History: 1975 c. 365.

29.643 Changing license. Any person who changes or alters, in any manner, or enters other than the correct date of issuance on any license issued under this chapter shall be fined not more than \$200 or imprisoned for not more than 90 days or both.

History: 1975 c. 365.

29.644 Breaking seals of department.

Any person who breaks, removes or interferes with any seal or tag attached to any animal, carcass, article or other thing by the department, or who meddles or interferes with any animal, carcass, article or other thing with such seal or tag attached, or who counterfeits any such seal or tag, attached or unattached, shall be fined not more than \$500, or imprisoned not more than 90 days, or both.

History: 1975 c. 365.

29.645 Larceny of game. No person shall, without permission of the owner, molest, disturb or appropriate any wild animal or the carcass or part thereof which has been lawfully reduced to possession by another.

29.65 Civil actions for damages caused by law violations. (1) The department may bring a civil action in the name of the state for the recovery of damages against any person unlawfully killing, wounding, catching, taking, trapping, or having unlawfully in possession any of the following named protected wild animals, birds, or fish, or any part of an animal, bird or fish, and the sum assessed for damages for each wild animal, bird, or fish shall be not less than the amount stated in this section:

(a) Any endangered species protected under s. 29.415 and rules adopted under s. 29.415, \$500.

(b) Any moose, elk, fisher, prairie chicken or sand hill crane, \$150.

(c) Any deer, bear, wild turkey or wild swan, \$100.

(d) Any bobcat (wildcat), fox, beaver or otter, \$50.

(e) Any coyote, raccoon or mink, \$25.

(f) Any sharptail grouse, ruffed grouse, spruce hen, wild duck, coot, wild goose or brant, \$15.

(g) Any pheasant, Hungarian partridge, quail, rail, Wilson's snipe, woodcock or shore bird, or protected song bird or harmless bird, \$10.

(h) Any muskrat, rabbit or squirrel, \$5.

(i) Any muskellunge or rock or lake sturgeon, \$25.

(j) Any largemouth or smallmouth bass, \$15.

(k) Any brook, rainbow, brown, or steel head trout, \$15.

(l) Any walleye pike, northern pike, or any other game fish not mentioned in pars. (i) to (k), \$5.

(m) Any game or fur-bearing animal or bird not mentioned in pars. (b) to (h), \$10.

(2) Any damages recovered in such action shall be paid into the state conservation fund and disbursed therefrom by the department. The costs of such action in case of a judgment in favor of the defendant shall be paid out of the conservation fund.

(3) A civil action brought under this section shall be a bar to a criminal prosecution for the same offense and any criminal prosecution for any offense chargeable under this section shall be a bar to a civil action brought under this section.

History: 1975 c. 365; 1977 c. 386.

The civil remedy is coextensive with the criminal sanctions of the chapter, and since the chapter does not prohibit killing fish by opening a dam unlawfully, there is no civil remedy. Dept. of Natural Resources v. Clintonville, 53 W (2d) 1, 191 NW (2d) 866

When a criminal action is brought for a violation of ch. 94, prohibiting deposit of pesticides in public waters of the state, such proceeding is not barred by a civil action to recover the statutory value of fish killed by such pesticides. 62 Atty. Gen. 130.

29.68 Liability of landowners. (1) SAFE FOR ENTRY; NO WARNING. An owner, lessee or occupant of premises owes no duty to keep the premises safe for entry or use by others for hunting, fishing, trapping, camping, hiking, snowmobiling, berry picking, water sports, sight-seeing, cutting or removing wood, climbing of observation towers or recreational purposes, or to give warning of any unsafe condition or use of or structure or activity on the premises to persons entering for such purpose, except as provided in sub. (3).

(2) PERMISSION. An owner, lessee or occupant of premises who gives permission to another to hunt, fish, trap, camp, hike, snowmobile, sightsee, berry pick, cut or remove wood, climb observation towers or to proceed with water sports or recreational uses upon such premises does not thereby extend any assurance that the premises are safe for such purpose, or constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted, except as provided in sub. (3).

(2m) NO LIABILITY. No public owner is liable for injury or death resulting from the use of natural features, natural conditions or attack by wild animals.

(3) LIABILITY. This section does not limit the liability which would otherwise exist:

(a) For wilful or malicious failure to guard or to warn against a dangerous condition, use, structure or activity.

(b) For injury suffered in any case where permission to hunt, fish, trap, camp, hike, snowmobile, sightsee, berry pick, cut or remove wood, climb observation towers or to proceed with water sports or recreational uses was granted for a valuable consideration other than the valuable consideration paid to the state or to a landowner by the state.

(c) For injury caused by acts of persons to whom permission to hunt, fish, trap, camp, hike, snowmobile, sightsee, berry pick, cut or remove wood, climb observation towers or to proceed with water sports or recreational uses was granted, to other persons as to whom the person granting permission, or the owner,

lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

(4) **INJURY TO PERSON OR PROPERTY.** Nothing in this section creates a duty of care or ground of liability for injury to person or property.

(5) **DEFINITIONS.** In this section:

(a) "Premises" includes lands, private ways and any buildings, structures and improvements thereon.

(b) "Owner" means any private citizen, a municipality as defined under s. 144.01 (12), the state, or the federal government, and for purposes of liability under s. 895.46, any employe or agent of the foregoing.

(c) "Valuable consideration" does not include contributions to the sound management and husbandry of natural and agricultural resources of the state resulting directly from recreational activity, payments to landowners either in money or in kind, if the total payments do not have an aggregate value in excess of \$150 annually, or those entrance fees paid to the state, its agencies or departments, municipalities as defined in s. 144.01 (12) or the U.S. government.

(d) "Natural features" include but are not limited to undesignated paths, trails and walkways and the waters of the state as defined under s. 144.01 (1).

(e) "Public owner" means a municipality as defined under s. 144.01 (12), the state, any agency of the state and for purposes of liability under s. 895.46, any employe or agent of the foregoing.

History: 1975 c. 179; 1977 c. 26 s. 75; 1977 c. 75, 123, 418.

A visitor at a resort which allowed people to enter and which expected to sell them small items was an invitee for a valuable consideration. The exclusion for "contributions to the sound management and husbandry" is a limited exclusion. *Copeland v. Larson*, 46 W (2d) 337, 174 NW (2d) 745.

A city is not an owner so as to be free from liability where plaintiff fell into a trench in a public park. *Goodson v. Racine*, 61 W (2d) 554, 213 NW (2d) 16.

Liability of owners and occupiers of land. 58 MLR 607.

29.69 Designation of trails, etc. (1) The department shall designate trails, campgrounds, picnic areas and other special use areas for property under its control. These trails, campgrounds, picnic areas and other special use areas shall be designated on maps available at the department's district office, on a sign outside the office on the property or on signs placed by the trails, campgrounds, picnic areas or other use areas at the option of the department.

(2) The department shall inspect trail signs and designated features twice a year, once before July 1 and once after July 1.

History: 1977 c. 418.

29.99 General penalty provisions. Any person who, for himself or herself, or by his or her agent, servant, or employe, or who, as agent, servant, or employe for another, violates this chapter shall be punished, respectively, as follows:

(1) For the unlawful use of any gill net or trammel in taking, catching or killing fish of any variety in any waters, or for the use of any net in taking, catching or killing trout of any variety in inland waters, by a fine of not more than \$500 or imprisonment for not more than 9 months, or both.

(2) For hunting, trapping or fishing without a license duly issued, whenever a license therefor is required by this chapter, by a forfeiture of not more than \$100.

(3) For the violation of any statutes or any department order relating to the hunting, taking, transportation or possession of game or game birds of all kinds, by a forfeiture of not more than \$100.

(4) For any violation of any provision of this chapter or any department order for which no other penalty is prescribed, by a forfeiture of not more than \$100.

(5) For the violation of any statutes or any department rules relating to the hunting or shooting of deer with the aid of artificial light or with the aid of an airplane and the illegal snaring of deer, or for violation of ss. 29.13 (5), 29.48 and 29.49, by a fine of not more than \$200 or imprisonment for not more than 90 days, or both, and a mandatory 3-year revocation of all licenses issued under this chapter.

(6) For the violation of any statutes or any department order relating to fishing, or the possession of game fish, except where some other penalty is specifically provided, by a forfeiture of \$100.

(7) Any violation of s. 29.33 or any department order regulating commercial fishing in outlying waters, by a forfeiture of not more than \$500.

(8) For the violation of any statute or any department order relating to the registration of any wild animal, by a forfeiture of not more than \$100.

(9) For any violation of this chapter or of any department order relating to snag lines, snag hooks or snag poles, by a forfeiture of not more than \$200.

(10) In addition to any other penalty for violation of this chapter or any department order made pursuant to this chapter, the court may revoke or suspend any or all privileges and licenses granted under this chapter for a period of up to 3 years. If a person is convicted of

reckless or highly negligent conduct in the operation or handling of a firearm or bow and arrow in violation of s. 940.08 or 941.20 and either death or bodily harm to another results from such violation, the court shall revoke every license issued to that person under this chapter and shall provide a fixed period during which no new license may be issued to such person. If no death or bodily harm to another results from the violation, the court may revoke any license issued to that person under this chapter and may provide a fixed period during which no new license may be issued to such person.

(11) 'PERSON' DEFINED. The word "person" as used in this section includes natural persons, firms, associations, and corporations.

(12) CONSTRUCTION OF PENALTY PROVISIONS. No penalty prescribed in any section of this chapter shall be held to be diminished because the violation for which it is prescribed falls also within the scope of a more general prohibition.

(13) PRESUMPTIONS. In any prosecution under this section it shall not be necessary for the state to allege or prove that the animals were not domesticated or were not taken for scientific purposes, or were taken or in possession or under control without a license or permit therefor; but the person claiming that such animals were domesticated, or were taken for scientific purposes, or were taken or in possession or under control under a license or permit duly issued, shall have the burden of proving such fact or facts.

History: 1975 c. 365 ss. 45, 50.

29.995 Penalties; repeaters. (1) When any person is convicted of any violation of this chapter or of any department order, and it is alleged in the indictment, information or complaint, and proved or admitted on trial or ascertained by the court after conviction that such person had been before convicted within a period of 5 years for a violation of this chapter

or of a department order, by any court of this state, such person shall be fined not more than \$100, or imprisoned not more than 6 months or both. In addition thereto, all licenses issued to such person pursuant to this chapter shall be revoked and no license shall be issued to such person for a period of one year thereafter.

(2) When any person is convicted and it is alleged in the indictment, information or complaint and proved or admitted on trial or ascertained by the court after conviction that such person had been before convicted 3 times within a period of 3 years for violations of this chapter or department order punishable under s. 29.134 (11), 29.29 (1) or 29.99 (1), (5) or (9), or for violation of s. 29.48, or for violation of any statute or department order regulating the taking or possession of any wild animal or carcass thereof during the closed season therefor or any combination of such violations by any court of this state, and that such convictions remain of record and unreversed, such person shall be fined not more than \$500 or imprisoned not more than 9 months or both.

(3) No penalty for any such violation may be reduced or diminished by reason of this section.

History: 1975 c. 365 s. 46.

29.996 Parties to a violation. (1) Whoever is concerned in the commission of a violation of this chapter for which a forfeiture is imposed is a principal and may be charged with and convicted of the violation although he or she did not directly commit it and although the person who directly committed it has not been convicted of the violation.

(2) A person is concerned in the commission of the violation if the person:

- (a) Directly commits the violation;
- (b) Aids and abets the commission of it; or
- (c) Is a party to a conspiracy with another to commit it or advises, hires or counsels or otherwise procures another to commit it.

History: 1975 c. 365.