

# HOUSE RESEARCH

## Bill Summary

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### Overview

This bill includes various provisions related to game and fish including a number of provisions originally passed as part of the 2010 Omnibus Game and Fish Bill (S.F. 2900) that was vetoed by the Governor, the bill includes:

- a majority of the policy provisions recommended by the Department of Natural Resource's (DNR) that were contained in this bill as introduced, including:
  - o provisions related to damage caused by elk;
  - o provisions related to fish health inspections and infested waters;
  - o provisions related to sandhill crane hunting;
  - o provisions modifying penalties related to big game;
  - o allowing free ice fishing in state parks;
  - o provisions related to the transportation of game birds; and
  - o a number of provisions providing technical clarifications and other technical changes.
- provisions from the following bills:
  - o H.F. 31, related to the possession of deer killed by motor vehicles;
  - o H.F. 124, allowing possession of a permitted handgun while bow hunting;
  - o H.F. 619, removing height restrictions for big game stands;
  - o H.F. 623, modifying the bear permit process;
  - o H.F. 620, allowing the use of a bait barrel when bear hunting;
  - o H.F. 599, expanding road authorities ability to control beavers;
  - o H.F. 225, limiting the number of experimental waters or special management waters designated for northern pike;
  - o H.F. 242, removing the spearing ban on Cass Lake;
  - o H.F. 621, allowing counties to have bounties on coyotes; and
  - o H.F. 625, providing certain liability protection for those grazing livestock on DNR lands.
- other provisions, including increased authorities and duties for the Board of Water and Soil Resources (BWSR) to accommodate a walk-in access program, limits on special management restrictions the DNR may use in the 300 series deer permit area in southeastern Minnesota, modifications to aquaculture regulations, modifications to all-terrain vehicle (ATV) definitions, removal of

the five year waiting period after federal delisting for a wolf season, and authorization of a water use permit for Lutsen Resort.

- 1        **Compensation for crop or fence damage caused by elk.** Amends § 3.7371. Adds pasture and fences around crops and pasture to the list of items eligible for compensation due to damage caused by elk.
- 2        **Restriction.** Amends § 16C.055, subd. 2. Exempts private aquaculture businesses involved in state stocking contracts from a \$100,000 annual cap.
- 3        **Containment facility.** Amends § 17.4982, subd. 8. Modifies the definition of "containment facility" for purposes of aquaculture and fish health inspection to include facilities licensed for species on the viral hemorrhagic septicemia (VHS) susceptible list published by the United States Department of Agriculture (USDA).
- 4        **Fish collector.** Adds § 17.4982, subd. 10a. Defines "fish collector" for purposes of fish health inspections.
- 5        **Fish health inspection.** Amends § 17.4982, subd. 12. Modifies the definition of "fish health inspections" by adding procedures done in accordance with the processes contained in the Diagnostic Manual for Aquatic Animal Diseases. Establishes criteria for the inspections, including requiring that collection of samples be done in cooperation with the producer and that testing be done in approved labs. Modifies minimum testing requirements.
- 6        **Fish health inspector.** Amends § 17.4982, subd. 13. Modifies the definition of "fish health inspector" to include an individual certified as an aquatic animal health inspector.
- 7        **Fish sample collecting.** Adds § 17.4989.
  - Subd. 1. Training.** States that a fish collector training class may be offered by any agency or organization with a class and syllabus approved by the commissioner. Specifies the requirements for a class.
  - Subd. 2. Certification time period.** States that a fish collector certification is valid for five years and may be renewed by successfully completing training. Provides provisions for revoking and suspending certifications.
  - Subd. 3. Conflict of interest.** States that a fish collector may not oversee the collection of fish from a facility or water body when the collector has a conflict of interest.
- 8        **Fish health inspection.** Amends § 17.4991, subd. 3. Requires an aquatic farm propagating species susceptible to VHS that has an effluent discharge into public waters to have a fish health inspection conducted at least once every 12 months and test for VHS according to specific guidelines. Permits the commissioner to prescribe alternative testing periods and methods under certain conditions. Requires the results of fish health inspections for all fish that remain in the state to be provided to the commissioner.
- 9        **Sale of eggs by the state.** Amends § 17.4992, subd. 4. Allows the DNR to sell or barter fish eggs or fry by removing existing limitations.
- 10       **Sucker eggs.** Amends § 17.4994. Removes an acreage requirement for the licensed taking of sucker eggs and permits the commissioner to limit the number of eggs taken based on the number of eggs historically taken by the licensee or other factors.
- 11       **All-terrain vehicle or vehicle.** Amends § 84.92, subd. 8. Modifies the definition of an ATV by removing the requirement that it have floatation tires and an engine displacement of less than 960 cubic centimeters, and requiring that the tires be "nonhighway" tires. States that golf carts, mini-

trucks, dune buggies, go carts, and vehicles specifically designed for lawn maintenance, agriculture, logging, or mining are not ATVs. Provides an immediate effective date and states that if the changes to this section of statute in S.F. 1115 are enacted that this section supersedes them.

- 12 Class 1 all-terrain vehicle.** Amends § 84.92, subd. 9. Modifies the definition of a class 1 ATV by requiring that the vehicle has a straddled seat.
- 13 Class 2 all-terrain vehicle.** Amends § 84.92, subd. 10. Modifies the definition of a class 2 ATV by removing the minimum weight threshold and adding a requirement that it has a width of 68 inches or less.
- 14 Preparation.** Amends § 84.942, subd. 1. Technical (removes obsolete language related to fish and wildlife planning).
- 15 Purposes and expenditures.** Amends § 84.95, subd. 2. Technical (removes obsolete language related to fish and wildlife planning).
- 16 Harvest of bait from invested waters.** Amends § 84D.11, subd. 2a. Prohibits the commissioner from issuing a permit to harvest bait from waters that contain certifiable diseases of fish and adds a cross reference to the new minnow taking provisions in section 97C.341 included later on in this bill.
- 17 Game birds.** Amends § 97A.015, subd. 24. Modifies the definition of "game birds" to include sandhill cranes.
- 18 Small game.** Amends § 97A.015, subd. 45. Adds gray wolves to the list of small game animals.
- 19 Undressed bird.** Amends § 97A.015, subd. 49. Modifies the definition of "undressed bird" for purposes of transporting the bird.
- 20 Unprotected birds.** Amends § 97A.015, subd. 52. Adds "Eurasian collared doves" to the list of unprotected birds.
- 21 Wild animals.** Amends § 97A.015, subd. 55. Modifies the definition of "wild animals" to clarify that the definition includes animals whether they are dead or alive and provides an immediate effective date.
- 22 Emergency deterrent materials assistance.** Amends § 97A.028, subd. 3. Makes destruction of crops or pasture by elk within the native elk range eligible for emergency deterrent materials assistance and increases the caps for the assistance.
- 23 Walleye stamp.** Amends § 97A.075, subd. 6. Limits the use of funds from the sale of the walleye stamp to the purchase of walleyes from the private sector.
- 24 Fishing may not be restricted.** Amends § 97A.101, subd. 3. Allows the taking of minnows to be restricted on waters designated for wildlife management purposes.
- 25 Refunds.** Amends § 97A.311, subd. 5. Adds a provision allowing the commissioner to issue refunds when an unnecessary license was purchased and requires all refund requests to occur within 90 days of purchase.
- 26 Owner responsibility; penalty amount.** Amends § 97A.321, subd. 1. Adds owners of dogs that mortally wound a big game animal to the list of those subject to a civil penalty of \$500. Currently, the owner of a dog that mortally wounds big game is subject to a penalty of \$100 for pursuing the big game and the current \$500 penalty applies only to the killing of big game.
- 27 Hunting big game while under revocation.** Adds § 97A.331, subd. 4a. Establishes a gross misdemeanor penalty for a person who takes big game while the person is prohibited from obtaining

a license.

- 28 Personal possession.** Amends § 97A.405, subd. 2. Allows the commissioner to charge a fee equal to the costs of producing and mailing a pictorial stamp (rather than the \$2 currently being charged which currently exceeds these costs). Allows the commissioner to set the fee without going through the rulemaking process.
- 29 Transfer.** Amends § 97A.415, subd. 2. Allows a person to transfer a game or fish license, according to procedures established by the commissioner, to a person with a severe disability or critical illness who is participating in a hunting or fishing program sponsored by a nonprofit.
- 30 Reports.** Amends § 97A.425, subd. 3. Modifies a provision requiring licensed taxidermists to submit reports to the DNR by allowing the commissioner to approve forms, not necessarily supply forms, in order to provide flexibility to businesses using computerized systems.
- 31 Mandatory separate selection.** Adds § 97A.433, subd. 5. Requires the commissioner to hold a separate elk license selection process for 20 percent of the licenses to be available only to those who have applied for a license ten or more times and have not received a license.
- 32 License issuance.** Amends § 97A.435, subd. 1. Clarifies the commissioner's authority in setting turkey seasons.
- 33 Angling in a state park.** Amends § 97A.445, subd. 1a. Allows ice fishing without a license in state parks (currently available only to those angling from shore or a boat/float).
- 34 Preference to service members.** Amends § 97A.465, subd. 5. Expands the eligibility for preference that the commissioner may use in selecting individuals for hunting and fishing licenses and permits to a person who has received a purple heart or who has a 100 percent service-connected disability.
- 35 Nonresident fishing.** Amends § 97A.475, subd. 7. Clarifies that the \$2 nonresident surcharge on fishing licenses does not apply to nonresidents under 16 purchasing a license at the resident rate.
- 36 Deer killed by motor vehicles.** Amends § 97A.502. Gives drivers of motor vehicles that have collided and killed a deer on public roads the priority for a possession permit to keep the deer provided the deer was not taken illegally.
- 37 Possession of unlawful animals brought into state prohibited.** Amends § 97A.505, subd. 2. Allows a person who possesses fish that were taken or possessed illegally in Canada to be charged in the same manner as if they had illegally taken or possessed the fish in the state.
- 38 Birds must be in undressed condition; exceptions.** Amends § 97A.545, subd. 5. Permits doves to be shipped and transported fully dressed in accordance with federal law which permits them to be shipped and transported fully dressed.
- 39 Parent or guardian responsibility; violation.** Adds § 97B.0215. Prohibits a parent or legal guardian from knowingly directing or allowing a minor to hunt without a required license, permit, training or certificate, or otherwise violate the game and fish laws.
- 40 Apprentice hunter validation requirements.** Amends § 97B.022, subd. 2. Modifies apprentice hunter validation requirements by allowing the purchase of the validation twice in a lifetime, allowing its use to obtain a hunting license in the same year, and adding bear to the list of game that may be hunted when accompanied by a licensed adult.
- 41 Scopes; visually impaired hunters.** Amends § 97B.031, subd. 5. Adds certified nurse practitioners and certified physician assistants acting under the direction of licensed physicians to verify medical evidence for purposes of special muzzleloader permits for those with visual impairments.

- 42 Possession of firearms and ammunition restricted in deer zones.** Amends § 97B.041. Prohibits muzzleloader hunters from possessing a firearm other than a legal muzzleloader, certain handguns, and lower powered firearms while muzzleloader hunting.
- 43 Exceptions; hunting and shooting ranges.** Modifies uncased gun requirements to allow a person to possess an unloaded, uncased firearm (excluding pistols) within an area where the discharge of a firearm has been prohibited. Restrictions within Anoka, Hennepin, Ramsey Counties, and cities with a population over 2,500 still apply.
- 44 Hunting from vehicle by disabled hunters.** Amends § 97B.055, subd. 3. Adds certified nurse practitioners and certified physician assistants acting under the direction of licensed physicians to verify medical evidence for purposes of special permits to hunt from vehicles for those with certain disabilities.
- 45 Hunting restricted between evening and morning.** Amends § 97B.075. Removes a provision that requires shooting hours for migratory game birds, except woodcock, on the opening day of the season to begin at 9:00 AM.
- 46 Qualifications for crossbow permits.** Amends § 97B.106, subd. 1. Adds certified nurse practitioners and certified physician assistants acting under the direction of licensed physicians to verify medical evidence for purposes of special permits to use crossbows for those with certain disabilities.
- 47 Possession of firearms prohibited.** Amends § 97B.211, subd. 1. States that the prohibition on possessing a firearm while taking deer by archery does not apply to a handgun carried under the permit to carry law.
- 48 Deer stand restrictions.** Amends § 97B.325. Removes the deer stand height restriction for permanent stands. Currently, the maximum height for deer stands is 16 feet.
- 49 Commissioner may limit the number of bear hunters.** Amends § 97B.405. Requires a person selected for a bear license to purchase the license by August 1. Requires any remaining licenses to be sold the following day on a first-come, first-served basis.
- 50 Baiting bears.** Amends § 97B.425. Modifies bear bait site identification requirements to allow other options (a driver's license number or DNR license identification number) rather than requiring a person to use only their identification information (name, etc.).
- 51 Baiting bears; use of drum.** Amends § 97B.425. Permits a private landowner, or a person authorized by the landowner, to hunt bear on the person's land using a drum with bait and provides criteria for drums that may be used for this purpose.
- 52 Taking elk causing damage or nuisance.** Adds § 97B.515 subd. 4. Allows the commissioner to issue licenses to take elk that are causing damage or nuisance between August 15 and March 1. Allows the commissioner to issue the licenses to individuals chosen from a list of elk hunters who have indicated an interest in responding to damage/nuisance situations on their elk license application. Exempts a hunter licensed under this provision from the once in a lifetime elk license provision under section 97A.433, subdivision 2, clause (2).
- 53 Open season.** Adds § 97B.645, subd. 9. Removes a five year waiting period that exists before a gray wolf season may be established after the gray wolf is delisted from the federal endangered species list.
- 54 Removal of beavers, beaver dams, and lodges by road authorities.** Adds § 97B.667. Permits a road authority to remove, kill, or have killed a beaver associated with a beaver lodge that is causing damage or threatening a public road, requires a permit and notification of the DNR within ten days of killing the beaver. Allows the road authority to implement a beaver control program after

consultation with the DNR and BWSR.

- 55 Migratory waterfowl seasons and limits.** Amends § 97B.803. Removes the prohibition on beginning the regular duck hunting season before the Saturday closest to October 1. The season would still be required to be consistent with federal law.
- 56 Seasons, limits, and other rules.** Amends § 97C.005, subd. 3. Permits the commissioner to make midseason adjustments to daily possession or size limits based on harvest, angling pressure, and population data to manage special management waters in the 1837 Ceded Territory in compliance with the court orders in *Mille Lacs Band of Chippewa v. Minnesota*, 119 S. Ct. 1187 (1999).
- 57 Northern pike experimental and special management waters.** Adds § 97C.007. Caps, at 90, the combined number of lakes designated for northern pike as experimental waters or special management waters (currently there is no limit). Requires the lakes to be selected from lakes already designated (in rules as of January 1, 2011) as experimental waters or special management waters as lakes with northern pike slot limits. Requires the designations to continue for at least ten years, at which time the commissioner must determine whether the designation should be discontinued based on scientific studies. (Currently, experimental waters or special management waters may be designated by the commissioner after public notice and comment. The commissioner may establish special regulations, such as seasons, methods, limits, and other requirements for taking fish on these designated waters.)
- 58 Contests requiring a permit.** Amends § 97C.081, subd. 3. Clarifies when fishing contest permits are required.
- 59 Contests without a permit.** Adds § 97C.081, subd. 2. Clarifies when fishing contest permits are not required.
- 60 Application for tag.** Amends § 97C.087, subd. 2. Clarifies that special fish management tags (sturgeon tags) may be applied for once each calendar year.
- 61 Transporting and stocking fish.** Amends § 97C.205. Permits the commissioner to prohibit the transportation of live fish by a person age 16 or younger for home aquarium purposes due to an emergency fish disease. Allows the commissioner to do so by written order published in the State Register.
- 62 Price of game fish fry and eggs.** Amends § 97C.211, subd. 5. Allows the DNR to sell or barter game fish fry or eggs for at least the cost associated with their production.
- 63 Certain aquatic life prohibited for bait.** Amends § 97C.341. Permits the commissioner to authorize the use of game fish eggs as bait and expands the definition of bait for purposes of the ban on bait from waters infected with VHS to include any bait used for taking wild animals. Permits the commissioner to allow the taking of cisco and rainbow smelt taken under rules adopted by the commissioner that are to be used as bait in Lake Superior or as bait processed to inactivate VHS. Requires frozen or dead fish brought into the state to be accompanied by paperwork, available for inspection, stating what water body the fish are from, a valid negative fish health certification, and other information.
- 64 Certification that frozen or dead fish bait are disease free.** Adds § 97C.342.
- Subd. 1. Definitions.** Defines "water body" and "commercial license" for purposes of disease certification of frozen or dead fish.
- Subd. 2. Bait restrictions.** Requires frozen or dead fish that are VHS susceptible species, cisco, and smelt that are used for bait to originate from waters that are certified disease free.

States that certifications are valid for one year.

**Subd. 3. Testing requests.** Requires a list of water bodies requiring a fish health certification for commercial bait harvest to be provided by the commissioner each year by March 1.

**Subd. 4. Certification fees.** Permits the commissioner to establish fees for services and the testing required to issue health certifications for a water body without going through the formal rulemaking process. Provides a list of the services to be covered.

**Subd. 5. Transportation permit requirements.** Requires a commercial harvester of fish harvesting from a certified disease free water body to obtain a live fish importation, transportation, and stocking permit good for 30 days. Requires the harvester to contact the DNR within 24 hours of exercising the permit.

**Subd. 6. Reporting requirements.** Requires a commercial harvester to retain records for each lot of frozen or dead fish bait sold. Specifies the content of the records and requires that they be completed within 24 hours of packaging and labeling each lot. Requires the records to be retained for three years and open to inspection by the commissioner.

**Subd. 7. Labeling requirements.** Requires frozen or dead fish bait to be labeled and specifies the information required to be on the label.

**Subd. 8. Persons using frozen or dead bait.** Requires a person using frozen or dead fish bait on waters of the state to have all the labeling required under the previous subdivision in their possession.

States that the section is effective the day following final enactment.

- 65 Powers and duties.** Amends § 103B.101, subd. 9. Expands the duties of the Board of Water and Soil Resources to include coordination of water and soil resources implementation activities and approval of contracts and easements. Permits the board to conduct or participate in local, state, or federal projects or programs that preserve or enhance water and soil resources and enter into and administer agreements with landowners and local governments.
- 66 Exemption.** Amends § 116.07, subd. 7d. Modifies the current pasture exemption from feedlot regulations to include cropland where livestock are allowed to forage during the winter. Modifies the qualifying time period from the ten-year period beginning January 1, 1990, to the ten-year period beginning January 1, 2010.
- 67 Coyote conflict management option.** Adds § 348.125. Allows a county or town board, by resolution, to offer a bounty for coyotes. Allows the resolution to apply to the whole or a portion of the county or town, specify the months the bounty is in place, and the amount of the bounty.
- 68 Livestock activities; immunity from liability.** Amends § 604A.12. Provides immunity from liability for any person or entity grazing livestock on state lands subject to an agreement with the commissioner of natural resources.

Immunity is provided for any damage or injury occurring as a result of the inherent risks of livestock activities, unless the person or entity grazing the livestock fails to exercise reasonable care in using the land for grazing or managing the livestock, or if the person or entity maintains a condition in material violation of an agreement with the commissioner of natural resources for use of the land, and that condition contributed to the harm caused.

"Inherent risks of livestock activities" is a term already defined in current law.

The bill also requires the commissioner of natural resources to post plainly visible signs on any state

property subject to a grazing agreement notifying individuals of the risks and limitations on liability provided in this section.

- 69 Liability; leased land, water-filled mine pits; municipal power agency land.** Amends § 604A.24. Classifies land enrolled in a state-sponsored walk-in access program as eligible for liability protections available in sections 604A.22 to 604A.23 which provides duty and liability exemptions for those making their lands available for recreational purposes without charge.
- 70 Rulemaking; game farms.** Requires the commissioner to amend Minnesota Rules, parts 6242.0900, subpart 1, and 6242.1000, subpart 1, to allow game farm licensees to use approved report and sales receipt formats.
- 71 Shallow lakes management report.** Requires the commissioner of natural resources to prepare a report on shallow lakes by January 1, 2012.
- 72 Rulemaking; spearing on Cass Lake.** Requires the commissioner to amend rules to allow a person to spear on Cass Lake and prohibits the commissioner from adopting restrictions on spearing northern pike on Cass Lake using existing authorities.
- 73 Deer hunting rules.** Requires rules imposing antler point restrictions (other than the legal buck restriction requiring at least one antler of three inches or more) for the series 300 deer permit areas in southeastern Minnesota (formerly zone 3) to expire after the 2012 deer hunting season. Requires legislative approval to reinstate an antler point restriction after that. Requires the commissioner to amend rules to allow a nine-day (rather than a seven-day) season option A in series 300 permit areas.
- 74 Consumptive use of water.** Provides the legislative authorization required for issuing water use permits exceeding 2,000,000 gallons per day for a permit for Lutsen Mountains ski resort to use water from the Poplar River for snowmaking and potable water. The permit is for five years, is capped at 150,000,000 gallons of water annually and requires water use to stop if the river's flow is less than 15 cubic feet per second for more than five consecutive days.
- 75 Interest in lands extended.** Makes Dakota County's reversionary interests in lands deeded to the state for the Minnesota Zoo permanent upon approval of the Dakota County Board.
- 76 Repealer.** Repeals § 84.942, subdivisions 2, 3, and 4 (requiring periodic updates to the comprehensive fish and wildlife management plan); § 97A.015, subdivisions 26b, 27b, and 27c (definitions for "intensive deer area," "lottery deer area," and "managed deer area"); § 97A.435, subd. 5 (provisions regarding the spring turkey season); § 97B.511 (the height restriction for permanent stands used to hunt moose); 97B.515, subd. 3 (the height restriction for permanent stands used to hunt elk); and § 97C.081, subd. 2 (fishing contest provisions).