

Fifty-seventh  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2394

Introduced by

Senators Cook, Fischer, Stenehjem

Representatives Hanson, Porter

1 A BILL for an Act to create and enact two new sections to chapter 20.1-01 and three new  
2 subsections to section 20.1-03-12 of the North Dakota Century Code, relating to fee hunting  
3 and guide license fees; and to amend and reenact section 20.1-01-02, subsection 17 of section  
4 20.1-02-05, section 20.1-03-11.2, subsections 34, 35, 36, and 42 of section 20.1-03-12, section  
5 20.1-03-36, and subsections 7, 8, and 9 of section 57-39.2-01 of the North Dakota Century  
6 Code, relating to licensing of outfitters and guides and sales tax definitions.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Section 20.1-01-02 of the 1999 Supplement to the North  
9 Dakota Century Code is amended and reenacted as follows:

10 **20.1-01-02. Definitions.** In this title, unless the context or ~~subject matter~~ otherwise  
11 requires:

- 12 1. "Afield" means being away from one's home or camp. The term does not include  
13 driving or being in actual physical control of a motor vehicle in violation of section  
14 39-08-01 or equivalent ordinance.
- 15 2. "Any part thereof" or "the parts thereof" includes the hide, horns, or hoofs of any  
16 animal specified and the plumage, skin, and every other part of any bird specified.
- 17 3. "Associated equipment" means:
  - 18 a. Any system, part, or component of a boat as originally manufactured or any  
19 similar part or component manufactured or sold for replacement, repair, or  
20 improvement of such system, part, or component;
  - 21 b. Any accessory or equipment for, or appurtenance to, a boat; and
  - 22 c. Any marine safety article, accessory, or equipment intended for use by a  
23 person on board a boat; but
  - 24 d. Excluding radio equipment.

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- 1           4. "Big game" means deer, moose, elk, bighorn sheep, mountain goats, and  
2           antelope.
- 3           5. "Boat" means any vessel:  
4           a. Manufactured or used primarily for noncommercial use;  
5           b. Leased, rented, or chartered to another for the latter's noncommercial use; or  
6           c. Engaged in the carrying of six or fewer passengers.
- 7           6. "Confiscate" or "confiscated" means to hold subject to the order of a court of  
8           competent jurisdiction.
- 9           7. "Department" means the game and fish department.
- 10          8. "Deputy director" means the deputy director of the department.
- 11          9. "Director" means the director of the department.
- 12          10. "Endangered species" means any species whose prospects of survival or  
13          recruitment within the state are in jeopardy due to any of the following factors:  
14          a. The destruction, drastic modification, or severe curtailment of its habitat.  
15          b. Its overutilization for scientific, commercial, or sporting purposes.  
16          c. The effect on it of disease, pollution, or predation.  
17          d. Other natural or manmade factors affecting its prospects of survival or  
18          recruitment within the state.  
19          e. Any combination of the foregoing factors.
- 20          The term also includes any species classified as endangered pursuant to the  
21          Endangered Species Act of 1973, Public Law 93-205.
- 22          11. "Established road or trail" means any public highway or road, improved or  
23          otherwise, dedicated for public ingress or egress, or any other road or trail  
24          normally used for travel but does not include temporary trails across cultivated land  
25          used for agricultural purposes.
- 26          12. "Fur-bearers" includes mink, muskrats, weasels, wolverines, otters, martens,  
27          fishers, kit or swift foxes, beavers, raccoons, badgers, wolves, coyotes, bobcats,  
28          lynx, mountain lions, black bears, and red or gray foxes.
- 29          13. "Game birds" includes all varieties of geese, brant, swans, ducks, plovers, snipes,  
30          woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails,  
31          partridges, cranes, rails, coots, wild turkeys, mourning doves, and crows.

- 1           14. ~~"Guide" or "outfitter" means any resident who holds that person out to the public as~~  
2           ~~a guide or outfitter, and who provides, for compensation, transportation,~~  
3           ~~equipment, arrangement of lodging, or that person's own or another's personal~~  
4           ~~services for the primary purpose of assisting a person or persons to locate or catch~~  
5           ~~fish or to locate, pursue, or hunt small game, big game, or fur bearers~~ is employed  
6           by a licensed outfitter to furnish personal services for the conduct of outdoor  
7           recreational activities directly related to the conduct of activities for which the  
8           employing outfitter is licensed. Nonresidents are not entitled to act as guides ~~or~~  
9           ~~outfitters~~ in this state.
- 10          15. "Gun dogs" includes any dog used to hunt protected wildlife.
- 11          16. "Harmful wild birds" includes blackbirds, magpies, English sparrows, and starlings.
- 12          17. "Harmless wild birds" includes all wild birds not defined herein as "harmful wild  
13           birds" or "game birds".
- 14          18. "Hunt" or "hunting" means shooting, shooting at, pursuing, taking, attempting to  
15           take, or killing any game animals and game birds; searching for or attempting to  
16           locate or flush any game animals and game birds; luring, calling, or attempting to  
17           attract game animals and game birds; hiding for the purpose of taking or  
18           attempting to take game animals and game birds; and walking, crawling, or  
19           advancing toward wildlife while possessing implements or equipment useful in the  
20           taking of game animals or game birds. The term does not include possessing or  
21           using photographic equipment.
- 22          19. "Lessee" means a person renting the land for agricultural purposes and a person  
23           defined as an outfitter in this section.
- 24          20. "Manufacturer" means any person engaged in:  
25           a. The manufacture, construction, or assembly of boats or associated  
26           equipment.  
27           b. The manufacture or construction of components for boats and associated  
28           equipment to be sold for subsequent assembly.  
29           c. The importation into the state for sale of boats, associated equipment, or  
30           components thereof.







1 the same manner as required by section 20.1-01-17 indicating that the land is open for hunting  
2 for a fee. An individual hunting on land that is posted as open for hunting for a fee must have in  
3 that individual's possession all required hunting licenses and a sales tax receipt indicating the  
4 sales tax permit number of the outfitter furnishing access to the land.

5 **SECTION 3.** A new section to chapter 20.1-01 of the North Dakota Century Code is  
6 created and enacted as follows:

7 **Fee hunting - Information supplied to director.** Within thirty days of the close of a  
8 hunting season, an outfitter charging a fee to hunt on that person's land must file with the  
9 director a register containing a record of all hunting fees collected on that land, the amount of  
10 fees collected on that land, from whom the fees were collected, and any other information  
11 required by the director. Information filed with the director under this section is not an open  
12 record but must be shared with the tax commissioner.

13 **SECTION 4. AMENDMENT.** Subsection 17 of section 20.1-02-05 of the 1999  
14 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15 17. Subject to ~~the provisions of~~ chapter 28-32, adopt rules for the licensing of guides  
16 ~~or~~ and outfitters, and may require records and reports as the director determines  
17 necessary. The director may, after due hearing as provided in chapter 28-32,  
18 revoke or refuse to renew the license of ~~any~~ a person who violates the rules or  
19 fails to provide the records and reports. ~~Any~~ A person who acts as a guide or  
20 outfitter without a license is guilty of a class B misdemeanor.

21 **SECTION 5. AMENDMENT.** Section 20.1-03-11.2 of the 1999 Supplement to the  
22 North Dakota Century Code is amended and reenacted as follows:

23 **~~20.1-03-11.2. Guides and outfitters~~ Outfitters - White-tailed deer licenses - Fees.**  
24 The governor shall make one-half of the antlered white-tailed deer licenses and permits  
25 allocated to nonresidents under subsection 4 of section 20.1-03-11, up to a maximum of one  
26 hundred licenses, available to ~~guides or~~ outfitters licensed in this state. ~~A guide or~~ An outfitter  
27 may not purchase or obtain more than five white-tailed deer licenses under this section in any  
28 one year. ~~A guide or~~ An outfitter shall pay the fee required for a white-tailed deer license sold  
29 to ~~guides or~~ outfitters and provided by them to nonresidents for each license purchased under  
30 this section. ~~A guide or~~ An outfitter may provide to nonresidents, for compensation, big game  
31 guiding and outfitting services and one white-tailed deer license per nonresident as provided in

1 this section to hunt white-tailed deer in the manner, at the places, and during the times the  
2 governor prescribes by proclamation.

3 **SECTION 6. AMENDMENT.** Subsections 34, 35, 36, and 42 of section 20.1-03-12 of  
4 the 1999 Supplement to the North Dakota Century Code are amended and reenacted as  
5 follows:

6 34. For an annual outfitter's license to guide for both hunting and fishing, one hundred  
7 fifty dollars.

8 35. For an annual outfitter's license to guide only for hunting, one hundred dollars.

9 36. For an annual outfitter's license to guide only for fishing, one hundred dollars.

10 42. For a white-tailed deer license sold to ~~guides or~~ outfitters and provided by them to  
11 nonresidents, two hundred fifty dollars.

12 **SECTION 7.** Three new subsections to section 20.1-03-12 of the 1999 Supplement to  
13 the North Dakota Century Code are created and enacted as follows:

14 For an annual license to guide for both hunting and fishing, one hundred dollars.

15 For an annual license to guide only for hunting, fifty dollars.

16 For an annual license to guide only for fishing, fifty dollars.

17 **SECTION 8. AMENDMENT.** Section 20.1-03-36 of the 1999 Supplement to the North  
18 Dakota Century Code is amended and reenacted as follows:

19 **20.1-03-36. Certified guides and ~~outfitters~~ - Requirements.** An individual may not  
20 be issued a certified guide license without first providing the director:

21 1. Proof that the individual is covered by general liability insurance against loss or  
22 expense due to accident or injury from guiding ~~or outfitting~~ services, at a minimum  
23 of one hundred thousand dollars per individual and three hundred thousand dollars  
24 per incident;

25 2. Proof that the individual is currently certified in adult cardiopulmonary resuscitation  
26 or its equivalent; and

27 3. Proof that the individual is currently certified in standard first aid or its equivalent.

28 **SECTION 9. AMENDMENT.** Subsections 7, 8, and 9 of section 57-39.2-01 of the  
29 North Dakota Century Code are amended and reenacted as follows:



1 hold a North Dakota retail sales tax permit or to a person who by contract  
2 incorporates such tangible personal property into, or attaches it to, real  
3 property situated in another state may not be considered a taxable sale if  
4 such delivery of possession would not be treated as a taxable sale in that  
5 state.

6 d. As used in this subsection the word "consumer" includes any hospital,  
7 infirmary, sanatorium, nursing home, home for the aged, or similar institution  
8 that furnishes services to any patient or occupant.

9 e. The sale of an item of tangible personal property to a purchaser who rents or  
10 leases it to a person under a finance leasing agreement over the term of  
11 which the property will be substantially consumed must be considered a retail  
12 sale if the purchaser elects to treat it as such by paying or causing the  
13 transferor to pay the sales tax thereon to the commissioner on or before the  
14 last day on which payments may be made without penalty as provided in  
15 section 57-39.2-12.

16 8. a. "Retailer" includes every ~~person~~:

17 (1) Person engaged in the business of leasing or renting hotel, motel, or  
18 tourist court accommodations, ~~and every person~~;

19 (2) Person engaged in the business of selling tangible goods, wares, or  
20 merchandise at retail, ~~or furnishing of~~;

21 (3) Person furnishing steam, gas, and communication services, ~~or~~;

22 (4) Person furnishing tickets or admissions to places of amusement,  
23 entertainment, and athletic events including the playing of any machine  
24 for amusement or entertainment in response to the use of a coin, ~~or~~;

25 (5) Person furnishing access or membership giving the purchaser the right  
26 to hunt on land posted under section 2 of this Act or outfitting services  
27 as defined under subsection 23 of section 20.1-01-02;

28 (6) Person furnishing magazines, or other periodicals; ~~any organization~~

29 (7) Organization licensed by the attorney general to conduct bingo games  
30 pursuant to section 53-06.1-03; ~~and includes any person~~

- 1                   (8) Person as herein defined who by contract or otherwise agrees to  
2                   furnish for a consideration a totally or partially finished product  
3                   consisting in whole or in part of tangible personal property subject to  
4                   the sales tax herein provided, and all items of tangible personal  
5                   property entering into the performance of such contract as a  
6                   component part of the product agreed to be furnished under said  
7                   contract shall be subject to the sales tax herein provided and the sales  
8                   tax thereon shall be collected by the contractor from the person for  
9                   whom the contract has been performed in addition to the contract price  
10                  agreed upon, and shall be remitted to the state in the manner provided  
11                  in this chapter; and ~~shall include the state~~
- 12                  (9) State or any municipality furnishing steam, gas, or communication  
13                  service to members of the public in its proprietary capacity.
- 14                  **b.** For the purpose of this chapter, retailer shall also include every clerk,  
15                  auctioneer, agent, or factor selling tangible personal property owned by any  
16                  other retailer.
- 17                  **c.** A retailer also includes every person who engages in regular or systematic  
18                  solicitation of a consumer market in this state by the distribution of catalogs,  
19                  periodicals, advertising flyers, or other advertising, or by means of print, radio  
20                  or television media, by mail, telegraphy, telephone, computer data base,  
21                  cable, optic, microwave, or other communication system.
- 22                  9. "Sale" means any transfer of title or possession, exchange or barter, conditional or  
23                  otherwise, in any manner or by any means whatever, for a consideration, and  
24                  includes ~~the~~:
- 25                  **a.** The furnishing or service of steam, gas, or communication, ~~the~~;
- 26                  **b.** The furnishing of bingo cards, ~~the~~;
- 27                  **c.** The furnishing of hotel, motel, or tourist court accommodations, ~~the~~;
- 28                  **d.** The furnishing of tickets or admissions to any place of amusement, athletic  
29                  event, or place of entertainment including the playing of any machine for  
30                  amusement or entertainment in response to the use of a coin, ~~and sales~~;

- 1            e. The furnishing of access or membership giving the purchaser the right to hunt  
2            on land posted under section 2 of this Act or outfitting services as defined  
3            under subsection 23 of section 20.1-01-02; and
- 4            f. The sale of magazines and other periodicals. Provided, the words  
5            "magazines and other periodicals" as used in this subsection do not include  
6            newspapers nor magazines or periodicals that are furnished free by a  
7            nonprofit corporation or organization to its members or because of payment  
8            by its members of membership fees or dues.