

LEGISLATURE OF NEBRASKA
 ONE HUNDRED SECOND LEGISLATURE
 FIRST SESSION
LEGISLATIVE BILL 41

Introduced by Hadley, 37.

Read first time January 06, 2011

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to the Game Law; to amend sections 37-238,
 2 37-405, 37-420, 37-421, 37-421.01, 37-427, 37-461,
 3 37-464, 37-483, 37-484, 37-485, 37-487, 37-488, 37-489,
 4 37-490, 37-492, 37-497, 37-498, 37-4,103, 37-503, and
 5 37-512, Reissue Revised Statutes of Nebraska, and
 6 sections 37-327, 37-407, 37-411, 37-426, 37-431, and
 7 37-450, Revised Statutes Cumulative Supplement, 2010; to
 8 change and eliminate provisions relating to fees,
 9 falconry, beaver and muskrat damage, controlled shooting
 10 areas, and possession of game; to change and eliminate
 11 provisions relating to licenses, permits, and stamps
 12 issued under the Game Law; to harmonize provisions; to
 13 repeal the original sections; and to outright repeal
 14 sections 37-460, 37-499, 37-4,100, 37-4,101, 37-4,102,
 15 and 37-562, Reissue Revised Statutes of Nebraska.

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

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

3 37-238 Raptor means any bird of the Accipitriformes,
4 Falconiformes, or Strigiformes, ~~except the golden and bald eagles.~~
5 including, but not limited to, caracaras, eagles, falcons, harriers,
6 hawks, kites, osprey, owls, and vultures.

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

9 37-327 (1) The commission shall establish fees for
10 licenses, permits, stamps, bands, registrations, and certificates
11 issued under the Game Law and the State Boat Act ~~and shall establish~~
12 ~~the fee required by section 37-562 as provided in such law, act, and~~
13 ~~section. the Game Law and State Boat Act.~~ The commission shall not
14 increase any fee more than six percent per year, except that if a fee
15 has not been increased by such percentage in the immediately
16 preceding year, the difference between a six percent increase and the
17 actual percentage increase in such preceding year may be added to the
18 percentage increase in the following year. Such fees shall be
19 collected and disposed of as provided in ~~such law, act, and section.~~
20 the Game Law and State Boat Act. The commission shall, as provided in
21 ~~such law, act, and section, the Game Law and State Boat Act,~~
22 establish issuance fees to be retained by authorized agents of
23 issuing such licenses, permits, stamps, bands, registrations, and
24 certificates. ~~under such law, act, and section.~~ The commission shall
25 establish such fees by the adoption and promulgation of rules and

1 regulations.

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

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

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

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

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

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

23 37-405 (1) The commission shall provide for the issuance
24 of permits to hunt, fish, or harvest fur. Application for such
25 permits shall be made to the commission or its agents and shall

1 contain such information as may be prescribed by the commission. All
2 applications for permits to harvest fur shall include the applicant's
3 social security number. A permit shall authorize the person to whom
4 it is issued to hunt, fish, or harvest fur-bearing animals as
5 provided by the Game Law during the period for which the permit is
6 issued.

7 (2) If the holder of a hunting permit is a hunter of
8 migratory game birds, he or she shall be required to declare himself
9 or herself as such and provide information regarding his or her
10 migratory game bird hunting activity to the commission. Documentation
11 of such a declaration shall be made on the hunting permit or a
12 separate document which shall become a part of the permit. Costs to
13 the commission of implementing such declaration and documentation and
14 for participation in a federal program designed to obtain survey
15 information on migratory bird hunting activity shall be funded from
16 the State Game Fund. For purposes of this subsection, migratory bird
17 has the definition found in 50 C.F.R. part 10, subpart B, section
18 10.12, and migratory game bird has the definition found in 50 C.F.R.
19 part 20, subpart B, section 20.11(a).

20 ~~(3)~~ (3)(a) All permits shall expire at midnight on
21 December 31 in the year for which the permit is issued, except as
22 otherwise provided in subdivision (b) of this subsection and sections
23 37-415, 37-420, and 37-421.

24 (b) The commission may issue multiple-year permits to
25 hunt, fish, or harvest fur. The permits shall expire at midnight on

1 December 31 in the last year for which the permit is valid.

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

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

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

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

14 37-407 The commission may offer multiple-year permits or
15 combinations of permits at reduced rates and may establish fees
16 pursuant to section 37-327 to be paid to the state for resident and
17 nonresident hunting permits, annual fishing permits, three-day
18 fishing permits, one-day fishing permits, combination hunting and
19 fishing permits, fur-harvesting permits, and nonresident ~~special two-~~
20 ~~day hunting permits, issued for periods of two consecutive days~~
21 ~~between the Wednesday immediately preceding Thanksgiving Day and~~
22 ~~December 31 of the same calendar year and limited to one special two-~~
23 ~~day permit per applicant per year, as follows:~~

24 (1) Resident fees shall be (a) not more than thirteen
25 dollars for hunting, (b) not more than seventeen dollars and fifty

1 cents for fishing, (c) not more than eleven dollars and fifty cents
2 for a three-day fishing permit, (d) not more than eight dollars for a
3 one-day fishing permit, (e) not more than twenty-nine dollars for
4 both fishing and hunting, and (f) not more than twenty dollars for
5 fur harvesting; and

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

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

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

3 (a) For any resident of Nebraska who is sixteen years of
4 age or older or any nonresident of Nebraska to engage in fur
5 harvesting or possess any fur-bearing animal or raw fur, ~~except~~
6 ~~that a person may possess a fur bearing animal or raw fur for up to~~
7 ~~ten days after expiration of a valid permit.~~ Nonresident fur-
8 harvesting permits may be issued only to residents of states which
9 issue similar permits to residents of Nebraska;

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

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

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

24 (2) It shall be unlawful for a nonresident to hunt or
25 possess any kind of game birds or game animals, to take any kind of

1 fish, mussel, turtle, or amphibian, or to harvest fur with a resident
2 permit illegally obtained.

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

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

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

14 (6) Except as provided in this section and sections
15 37-407 and 37-418, it shall be unlawful for any nonresident to trap
16 or attempt to trap or to harvest fur or attempt to harvest fur from
17 any wild mammal.

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

1 elk permit, and at least one thousand dollars for failure to hold a
2 mountain sheep permit.

3 (b) If the offense is failure to hold a hunting, fishing,
4 fur-harvesting, deer, turkey, or antelope permit as required, unless
5 issuance of the required permit is restricted so that permits are not
6 available, the court shall require the offender to purchase the
7 required permit and exhibit proof of such purchase to the court.

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

10 37-420 (1) Any veteran who is a legal resident of the
11 State of Nebraska ~~and who was discharged or separated with a~~
12 ~~characterization of honorable or general (under honorable conditions)~~
13 ~~shall be exempt from the payment of any fees provided by the laws of~~
14 ~~the State of Nebraska and established by the commission pursuant to~~
15 ~~section 37-327 for the privilege of fishing or hunting in Nebraska~~
16 may be issued a combination fishing and hunting permit, habitat
17 stamp, aquatic habitat stamp, and Nebraska migratory waterfowl stamp
18 if the veteran:

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

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

24 ~~(b)-(ii)~~ Is receiving a pension from the department as a
25 result of total and permanent disability, which disability was not

1 incurred in the line of duty in the military service.

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

8 ~~(3)~~(2) If disabled persons are unable by reason of
9 physical infirmities to hunt and fish in the normal manner, the
10 commission may issue special permits without cost to those persons to
11 hunt and fish from a vehicle, but such permits shall not authorize
12 any person to shoot from any public highway.

13 ~~(4)~~(3) All permits issued without the payment of any
14 fees pursuant to this section shall be perpetual and become void only
15 upon termination of eligibility as provided in this section.

16 ~~(5)~~(4) The commission may adopt and promulgate rules and
17 regulations necessary to carry out this section.

18 ~~(6)~~(5) Permits issued under subdivision ~~(3)~~(2) of this
19 section as it existed prior to January 1, 2006, shall not expire as
20 provided in section 37-421.

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

23 37-421 (1) The commission may issue an annual combination
24 fishing and hunting permit, habitat stamp, aquatic habitat stamp, and
25 Nebraska migratory waterfowl stamp upon application and payment of a

1 fee of five dollars to (a) any Nebraska resident who is a veteran,
2 who is sixty-four years of age or older, and who was discharged or
3 separated with a characterization of honorable or general (under
4 honorable conditions) or (b) any Nebraska resident who is sixty-nine
5 years of age or older. ~~A person who is issued a permit under this
6 section shall be exempt from the payment of any additional fees
7 provided by the laws of the State of Nebraska and established by the
8 commission pursuant to section 37-327 for the privilege of fishing or
9 hunting in Nebraska, except that such exemption shall not extend to
10 the privilege of commercial fishing, trapping of fur-bearing animals,
11 or hunting for deer, antelope, wild turkey, or any other species of
12 fish and game on which the open season is limited to a restricted
13 number of permits or to special permits for a restricted area or game
14 management unit.~~

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

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

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

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

3 37-421.01 (1) Notwithstanding any provision of section
4 37-407 to the contrary, a Nebraska resident who ~~purchased a hunting,~~
5 ~~fishing, or combination hunting and fishing permit and who was is~~
6 deployed out of state with a branch of the United States military or
7 has been so deployed within the last twelve months at the time of
8 application shall be entitled to receive a discounted permit an
9 annual combination fishing and hunting permit, habitat stamp, aquatic
10 habitat stamp, and Nebraska migratory waterfowl stamp on a one-time
11 basis upon returning to the state if the resident:

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

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

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

20 (2)(a) Notwithstanding any provision of section 37-447,
21 37-449, 37-450, 37-451, or 37-457 to the contrary, a Nebraska
22 resident who purchased a big game permit and who was deployed out of
23 state with a branch of the United States military for the entire
24 season of the hunt and who was unable to use the permit shall be
25 entitled to receive a discounted permit on a one-time basis upon

1 returning to the state if the resident provides to the commission
2 ~~satisfactory proof of purchase of the original permit and evidence of~~
3 ~~the resident's deployment.~~ Alternatively, the member of the military
4 may request a refund of the amount paid for a big game permit and the
5 commission shall pay such amount.

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

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

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

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

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

20 37-426 (1) Except as provided in subsection (4) of this
21 section:

22 (a) No resident of Nebraska sixteen years of age or older
23 and no nonresident of Nebraska regardless of age shall hunt, harvest,
24 or possess any game bird, upland game bird, game animal, or fur-
25 bearing animal unless, at the time of such hunting, harvesting, or

1 possessing, such person has an unexpired habitat stamp as prescribed
2 by the rules and regulations of the commission prior to the time of
3 hunting, harvesting, or possessing such bird or animal;

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

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

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

1 five dollars, as established by the commission.

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

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

22 (3)(a) The commission may issue a multiple-year habitat
23 stamp upon application and payment of the appropriate fee. The fee
24 for a multiple-year habitat stamp shall be established by the
25 commission pursuant to section 37-327 and shall not be more than the

1 number of years the stamp is valid times the fee required in
2 subsection (5) of this section for an annual habitat stamp. Payment
3 of such fee shall be made in a lump sum at the time of application. A
4 replacement multiple-year habitat stamp may be issued if the original
5 is lost or destroyed.

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

16 (c) The commission may issue a multiple-year aquatic
17 habitat stamp upon application and payment of the appropriate fee.
18 The fee for a multiple-year aquatic habitat stamp shall be
19 established by the commission pursuant to section 37-327 and shall
20 not be more than the number of years the stamp is valid times the fee
21 required in subsection (5) of this section for an annual aquatic
22 habitat stamp. Payment of such fee shall be made in a lump sum at the
23 time of application. A replacement multiple-year aquatic habitat
24 stamp may be issued if the original is lost or destroyed. The fee for
25 a replacement shall be not more than five dollars, as established by

1 the commission.

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

13 ~~(5)–(5)(a)~~ Any person to whom a stamp has been issued
14 shall, immediately upon request, exhibit evidence of issuance of the
15 stamp to any officer. Any person hunting, fishing, harvesting, or
16 possessing any game bird, upland game bird, game animal, or fur-
17 bearing animal or any aquatic organism requiring a fishing permit in
18 this state without evidence of issuance of the appropriate stamp
19 shall be deemed to be without such stamp.

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

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

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

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

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

24 37-427 The habitat stamp, aquatic habitat stamp, or
25 Nebraska migratory waterfowl stamp required by section 37-426 is not

1 transferable. ~~The and, except for the~~ lifetime habitat stamp, the
2 lifetime aquatic habitat stamp, and the lifetime Nebraska migratory
3 waterfowl stamp, ~~and a~~ do not expire. A multiple-year stamp expires
4 at midnight on December 31 in the last year for which the multiple-
5 year stamp is valid. A habitat stamp purchased for a permit which is
6 valid into the next calendar year, expires when the permit expires.
7 Any other stamp expires at midnight on December 31 in the year for
8 which the stamp is issued.

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

11 37-431 (1)(a) The Nebraska Habitat Fund is created. The
12 commission shall remit fees received for annual and multiple-year
13 habitat stamps and annual and multiple-year Nebraska migratory
14 waterfowl stamps to the State Treasurer for credit to the Nebraska
15 Habitat Fund. Any money in the fund available for investment shall be
16 invested by the state investment officer pursuant to the Nebraska
17 Capital Expansion Act and the Nebraska State Funds Investment Act. Up
18 to twenty-five percent of the annual receipts of the fund may be
19 spent by the commission to provide access to private wildlife lands
20 and habitat areas, and the remainder of the fund shall not be spent
21 until the commission has presented a habitat plan to the Committee on
22 Appropriations of the Legislature for its approval.

23 (b) Fees received for lifetime habitat stamps and
24 lifetime Nebraska migratory waterfowl stamps under the Game Law shall
25 be credited to the Nebraska Habitat Fund. Twenty-five percent of the

1 fees for such stamps shall not be expended but may be invested by the
2 state investment officer pursuant to the Nebraska Capital Expansion
3 Act and the Nebraska State Funds Investment Act. Income from such
4 investments may be expended by the commission pursuant to section
5 37-432.

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

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

1 the commission pursuant to section 37-432.

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

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

17 37-450 (1) The commission may issue permits for hunting
18 elk and may adopt and promulgate separate and, when necessary,
19 different rules and regulations therefor within the limitations
20 prescribed in sections 37-447 and 37-452 for hunting deer.

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

1 cents for each resident elk permit issued and not to exceed three
2 times such amount for each nonresident elk permit issued.

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

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

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

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

17 37-461 If any dam, canal, drainage ditch, irrigation
18 ditch, private fish pond, aquaculture facility, artificial waterway,
19 railroad embankment, or other property is being damaged or destroyed
20 by muskrats or beavers, the commission may issue a permit to the
21 ~~owner or owners of such dam, canal, ditch, pond, facility, waterway,~~
22 ~~embankment, or other property~~ person who owns or controls the
23 property allowing the person or his or her designee to take or
24 destroy such muskrats or beavers. The muskrats, beavers, or parts
25 thereof taken under the authority of such permit shall not be sold or

1 used unless the permitholder also possesses a fur-harvesting permit
2 that is current or valid at the time of the sale or use. The , and
3 the commission may make and enforce rules adopt and promulgate rules
4 and regulations in connection with the issuance of such permits, as
5 are necessary to prevent the illegal destruction of muskrats by any
6 holder of such a permit. Any person violating this section shall be
7 guilty of a Class III misdemeanor and shall be fined at least fifty
8 dollars.

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

11 37-464 Except as otherwise provided in the Game Law, it
12 shall be unlawful for any person, other than a person holding a fur-
13 harvesting permit, a captive wildlife permit, a fur buyer's permit,
14 or a permit issued pursuant to section 37-460, 37-461, with regard to
15 pelts of beaver or muskrat taken pursuant to such permits, permit,
16 and officers and employees of the commission, to possess the raw fur,
17 or pelt, or carcass of any fur-bearing animal protected by the Game
18 Law. at any time other than during the open season for such fur-
19 bearing animal and ten days immediately thereafter. Any person who by
20 trapping or other lawful means has become the owner of the raw furs
21 or pelts of such fur bearing animals during the open season thereon
22 and who during the ten days immediately after the close of such open
23 season has been unable to obtain a satisfactory price for such furs
24 or otherwise has been prevented from lawfully disposing of the same
25 may, during such ten-day period, obtain from the commission a permit

1 ~~to retain possession of such furs for such further period of time as~~
2 ~~the commission may by rule and regulation designate. All applications~~
3 ~~for such permits shall be verified under oath, state the number and~~
4 ~~kind of untanned pelts on hand which it is desired to carry over, be~~
5 ~~filed with the commission before the expiration of such ten-day~~
6 ~~period, and be accompanied by the certificate of an employee of the~~
7 ~~commission or the county sheriff that the applicant, to the personal~~
8 ~~knowledge of such employee or sheriff, then has on hand the number~~
9 ~~and kinds of furs for which the permit is applied for. Any person~~
10 ~~knowingly making or assisting in making a false certificate in~~
11 ~~connection with such an application shall be guilty of a Class V~~
12 ~~misdemeanor.~~

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

15 37-483 The construction, operation, and maintenance of a
16 facility commonly known as a recall pen, also known as a recapture
17 pen, which is used for the recapture of marked game birds originating
18 from the holder of a captive wildlife permit in conjunction with dog
19 training or dog trial activities shall be legal if the person owning
20 or controlling such recall pen, prior to the operation thereof, ~~pays~~
21 ~~an annual fee of not more than fifteen dollars, as established by the~~
22 ~~commission pursuant to section 37-327, for each recall pen under his~~
23 ~~or her ownership or control. holds a captive wildlife permit and~~
24 ~~complies with section 37-479.~~ The commission shall adopt and
25 promulgate rules and regulations for the issuance of permits for

1 recall pens and for the possession and use of recall pens. Nothing in
2 this section shall authorize the use of recall pens for the trapping
3 of other wild birds.

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

6 37-484 Any person or persons owning, holding, or
7 controlling by lease or otherwise, which possession must be for a
8 term of five or more years, any ~~contiguous~~ tract or tracts of land
9 having an area of not less than ~~one hundred twenty-eighty~~ eighty acres and
10 not more than ~~one thousand two hundred eighty-two thousand five~~
11 hundred sixty acres who desires to establish a game breeding and
12 controlled shooting area to propagate, preserve, and shoot game birds
13 under the regulations as provided in sections 37-484 to 37-496 shall
14 make application to the commission for a license as provided by such
15 sections. Such application shall be made under oath of the applicant
16 or one of its principal officers if the applicant is an association,
17 club, or corporation and shall be accompanied by a license fee of not
18 more than one hundred forty-nine dollars and fifty cents, as
19 established by the commission pursuant to section 37-327. Any
20 controlled shooting area existing on February 18, 1987, shall
21 continue in operation on the existing acreage until such controlled
22 shooting area license is not renewed or canceled. If the applicant is
23 an individual, the application shall include the applicant's social
24 security number.

25 Sec. 17. Section 37-485, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 37-485 Upon receipt of the application, the commission
3 shall inspect the area proposed to be licensed described in such
4 application and its premises and facilities. The commission shall
5 also inspect the area where game birds are to be propagated, reared,
6 and liberated and the cover for game birds on such area. The
7 commission shall also ascertain the ability of the applicant to
8 operate a property of this character. If the commission finds (1)
9 that the area is of the size specified in section 37-484, (2) that
10 the area is ~~contiguous,~~ comprised of one or more tracts and each
11 tract is a distance of no more than two miles from at least one other
12 tract in the proposed area, (3) that the area has the proper
13 requirements for the operation of such a property, (4) that the game
14 birds propagated or released thereon are not likely to be diseased
15 and a menace to other game, (5) that the operation of such property
16 will not work a fraud upon persons who may be permitted to hunt
17 thereon, and (6) that the issuing of the license will otherwise be in
18 the public interest, the commission shall approve such application
19 and issue a game breeding and controlled shooting area license for
20 the operation of such a property on the tract described in such
21 application with the rights and subject to the limitations prescribed
22 in sections 37-484 to 37-496.

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

25 37-487 Upon receipt of ~~the~~ a license under sections

1 ~~37-484 to 37-496~~, the licensee shall promptly post such licensed
2 areas at intervals of not more than five hundred feet with signs to
3 ~~be according to the requirements~~ prescribed by the commission. The
4 boundaries of such licensed game breeding and controlled shooting
5 areas shall also be clearly defined by natural boundaries, artificial
6 boundaries, or by signs.

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

9 37-488 ~~(1)~~—The licensee of any licensed game breeding and
10 controlled shooting area may take or authorize to be taken, within
11 the season fixed and designated and in such numbers as provided in
12 sections 37-484 to 37-496, game birds as specified in rules and
13 regulations of the commission and released on licensed areas during
14 the shooting season as provided in such sections. The commission
15 shall prescribe requirements, in rules and regulations, for the
16 marking and transport of the game birds released.

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

20 ~~(3) All game birds released for hunting on a controlled~~
21 ~~shooting area shall be marked by banding, toe clipping, or some other~~
22 ~~method approved by the commission prior to release. Any game bird~~
23 ~~killed by a hunter on a controlled shooting area which does not have~~
24 ~~a band shall be banded prior to being transported from such area. The~~
25 ~~licensee shall pay to the commission the sum of not less than ten~~

1 ~~cents and not more than fifteen cents, as established by the~~
2 ~~commission pursuant to section 37-327, for each band used to mark~~
3 ~~game birds.~~

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

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

11 37-489 For the purpose of sections 37-484 to 37-496, at
12 ~~least five hundred game birds shall be released upon such licensed~~
13 ~~game breeding and controlled shooting areas in a manner satisfactory~~
14 ~~to numbers regulated by the commission. The licensee shall keep a~~
15 ~~register which shall clearly show the number and kind of game birds~~
16 ~~released and propagated each year, the date of release, the number~~
17 ~~and kind of game birds taken, the date when taken, and the~~
18 ~~disposition made of such game birds. The licensee shall also keep~~
19 ~~such records and make such reports under oath as to game birds~~
20 ~~released, propagated, and taken, at such times and in such manner as~~
21 ~~may be required by the commission. The commission shall keep an~~
22 ~~adequate record of the number of game birds released and propagated~~
23 ~~on each licensed game breeding and controlled shooting area in each~~
24 ~~year and of the game birds taken.~~

25 Sec. 21. Section 37-490, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 37-490 No person shall hunt any upland game birds and
3 mallard ducks upon such breeding and controlled shooting area except
4 between September 1 and April 1 of each year, except that turkeys may
5 be hunted throughout the open season.

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

8 37-492 The commission may adopt and promulgate rules and
9 regulations for carrying out, administering, and enforcing the
10 provisions of sections 37-484 to 37-496. The commission shall limit
11 the number of areas proposed for licensing so that the total acreage
12 licensed for game breeding and controlled shooting areas in any one
13 county does not exceed ~~one~~ two percent of the total acreage of the
14 county in which the areas are sought to be licensed. The commission
15 shall not require distances between boundaries of game breeding and
16 controlled shooting areas to be greater than two miles. ~~No license~~
17 ~~shall be issued for any game breeding and commercial controlled~~
18 ~~shooting area established on and after July 15, 1998, whose boundary~~
19 ~~lies within one mile of a game refuge or wildlife management area. No~~
20 license shall be issued for any area whereon mallard ducks are shot
21 or to be shot if the area lies within three miles of any river or
22 within three miles of any lake with an area exceeding three acres,
23 except that a license may be issued for such area for the shooting of
24 upland game birds only, and the rearing or shooting of mallard ducks
25 thereon is prohibited.

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

3 37-497 (1) The commission may take such steps as it deems
4 necessary to provide for the protection and management of raptors.

5 (2) The commission may issue falconry ~~licenses to permit~~
6 permits for the taking and possession of raptors for the purpose of
7 practicing falconry. ~~No such license may be issued to an applicant~~
8 ~~unless he or she is a resident of the state,~~ A falconry permit may be
9 issued only to a resident of the state who has paid the fees required
10 in this subsection, and has passed a written and oral examination
11 concerning raptors given by the commission or an authorized
12 representative of the commission. The commission shall charge a fee
13 for each ~~license-permit~~ of not more than seventeen dollars for
14 persons ~~fourteen-twelve~~ to seventeen years of age and not more than
15 forty-six dollars for persons eighteen years of age and older, as
16 established by the commission pursuant to section 37-327. If the
17 applicant fails to pass ~~either the examination, or both of them,~~ he
18 or she shall not be entitled to reapply for a falconry ~~license-permit~~
19 for a period of six months after the date of the examination. A
20 person less than ~~fourteen-twelve~~ years of age shall not be issued a
21 falconry ~~license, and a permit.~~ A person from fourteen-twelve to
22 seventeen years of age may be issued such a license-a permit only if
23 he or she is sponsored by an adult ~~person~~ who has a valid falconry
24 ~~license-permit and appropriate experience.~~ All falconry licenses
25 permits shall be nontransferable and shall expire three years after

1 the date of issuance. If the commission is satisfied as to the
2 competency and fitness of an applicant whose ~~license~~ permit has
3 expired, ~~a license~~ his or her permit may be renewed without requiring
4 further examination ~~under such~~ subject to terms and conditions ~~as are~~
5 ~~established~~ imposed by the commission. ~~Species~~ The commission shall
6 adopt and promulgate rules and regulations outlining species of
7 raptors which may be taken, captured, or held in possession. ~~shall~~
8 ~~include only those species authorized by the commission. The number~~
9 ~~of each species of raptors which may be taken, captured, or held in~~
10 ~~possession shall be subject to regulation by the commission.~~

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

25 (4) The commission may issue raptor collecting permits to

1 nonresidents as prescribed by the rules and regulations of the
2 commission. The fee for a permit shall be not more than four times
3 the fee for falconry permits, as established by the commission
4 pursuant to section 37-327. A raptor collecting permit shall be
5 nontransferable. The commission shall adopt and promulgate rules and
6 regulations governing the issuance and conditions of raptor
7 collecting permits.

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

10 37-498 (1) It shall be unlawful for any person to take or
11 attempt to take or maintain a raptor in captivity, ~~any raptor,~~ except
12 as otherwise provided by law or by rule or regulation of the
13 commission, unless he or she ~~shall first secure~~ possesses a falconry
14 ~~or permit, a captive propagation license permit, or a raptor~~
15 collecting permit as required by section 37-497.

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

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

1 ~~use, or temporary medical or personal care when authorized by the~~
2 ~~commission in writing and (b) as permitted under a captive~~
3 ~~propagation license.~~

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

6 37-4,103 Any person violating any provision of sections
7 37-497 ~~to 37-4,102 or 37-498~~ shall be guilty of a Class IV
8 misdemeanor. In , and, in addition, the court shall require that any
9 raptor or raptors in the possession of the offender be confiscated
10 and the ~~license~~ permit of the offender be revoked.

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

13 37-503 It shall be unlawful for anyone, ~~except a holder~~
14 ~~of an aquaculture permit, a captive wildlife auction permit, or a~~
15 ~~captive wildlife permit,~~ to have in his or her possession, except
16 during the open season thereon, any unmounted game except as ~~provided~~
17 ~~in sections 37-460 and 37-562~~ allowed by the Game Law or the rules
18 and regulations of the commission. ~~adopted pursuant to such sections.~~

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

21 37-512 Every express company and common carrier, their
22 officers, agents, and servants, and every other person who (1)
23 transfers or carries from one point to another within the state, (2)
24 takes out of the state, or (3) receives, for the purpose of
25 transferring from this state, any raw furs protected by the Game Law,

1 except as permitted in this section, shall be guilty of a Class III
2 misdemeanor. ~~It shall be lawful for any~~ Any express company,
3 railroad, common carrier, or postmaster ~~to~~ may receive raw furs
4 protected by the Game Law for transportation from one point to
5 another by express, baggage, or mail ~~during the open season and ten~~
6 ~~days thereafter, or such further period as may be specifically~~
7 ~~granted a shipper by the commission,~~ when such raw fur is accompanied
8 by a ~~tag furnished by the commission and~~ document placed upon the
9 package giving the name of the consignee, the number of his or her
10 fur-harvesting permit, the date of expiration of the permit which
11 must be on or after the date of shipment, and a description of the
12 kind and number of each kind of raw fur in the shipment. ~~A duplicate~~
13 ~~portion of such tag shall be filled out and sent to the secretary of~~
14 ~~the commission.~~

15 Sec. 28. Original sections 37-238, 37-405, 37-420,
16 37-421, 37-421.01, 37-427, 37-461, 37-464, 37-483, 37-484, 37-485,
17 37-487, 37-488, 37-489, 37-490, 37-492, 37-497, 37-498, 37-4,103,
18 37-503, and 37-512, Reissue Revised Statutes of Nebraska, and
19 sections 37-327, 37-407, 37-411, 37-426, 37-431, and 37-450, Revised
20 Statutes Cumulative Supplement, 2010, are repealed.

21 Sec. 29. The following sections are outright repealed:
22 Sections 37-460, 37-499, 37-4,100, 37-4,101, 37-4,102, and 37-562,
23 Reissue Revised Statutes of Nebraska.