

State of Iowa

1962

Iowa
Conservation Laws
1962

**FISH, GAME, STATE PARK AND
FORESTRY LAWS AND
RELATED STATUTES**

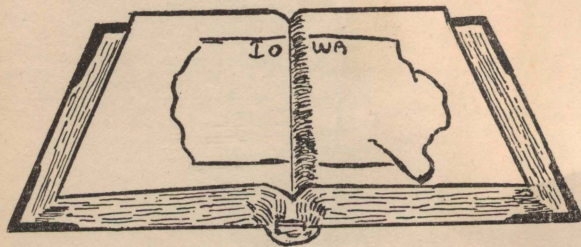
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STATE OF IOWA
CONSERVATION COMMISSION

Conservation Laws

(Citations from the Code of Iowa 1958 and
Laws of the Fifty-ninth General Assembly.)

Laws Relating to Parks, Lakes, Streams,
Boats, Forests, Fish, Game, Fur-bearing
Animals and Other Natural Resources

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Foreword

This booklet is a digest of the laws relating to parks, streams, boats, forests, fish, game, fur-bearing animals and other natural resources under the jurisdiction of the Conservation Commission. It is published in this form to make information on conservation laws readily available to hunters, trappers, fishermen, and all others interested in the use and control of our natural resources.

The State Conservation Commission has no authority to make laws, but because it is not possible to predict two years in advance what conditions affecting wildlife will be, the State Legislature has enacted Section 109.39, Code of 1954, known as the "biological balance section."

This law authorizes the Conservation Commission to make investigations to determine the facts regarding wildlife populations, and if the facts so indicate, the Commission is authorized by administrative order to extend, shorten, open or close seasons and/or change catch limits, size limits, bag limits and/or possession limits or areas in accordance with said findings.

The purpose of this law is to provide proper management of the wildlife resources of the state. If a severe winter has so depleted wildlife that only a seedstock is left, the Commission can close the season; likewise if there is a population in excess of adequate seedstock, the season can be extended.

Administrative orders are not included in this text. However, when conditions warrant changes in the seasons as set by statute, widespread publicity is given the change in newspapers, on the radio, and in special leaflets.

Migratory waterfowl seasons are set by proclamation of the President of the United States upon the recommendations of the United States Fish and Wildlife Service and are

12-10-62 State Conservation Comm. Gift

based each year on the facts determined by said service with state conservation departments cooperating.

In order to keep this booklet a pocket-sized volume, it was decided not to include in its pages lists of the state parks, meandered streams, state-owned lakes, public shooting grounds, refuges, etc. The Conservation Commission maintains an information service at the Commission offices in Des Moines, where any of the above information may be obtained on request.

Glen G. Powers, Director

CHAPTER 107

STATE CONSERVATION COMMISSION

Referred to in §109.1

Identification and use of publicly owned automobiles, etc.,
§740.20 et seq.

- 107.1 Creation of commission—membership.
- 107.2 Appointment.
- 107.3 Full-time appointments.
- 107.4 Vacancies.
- 107.5 Compensation.
- 107.6 Expenses generally.
- 107.7 Bonds-surety.
- 107.8 Premium.
- 107.9 Offices.
- 107.10 Organizations and meetings.
- 107.11 Conservation director
- 107.12 Term and salary.
- 107.13 Officers and employees—salaries.
- 107.14 Conservation officers.
- 107.15 Peace officers.
- 107.16 Removal.
- 107.17 Funds.
- 107.18 Reports of funds.
- 107.19 Expenditures.
- 107.20 Limitation to state lands—exception.
- 107.21 Divisions of department.
- 107.22 Political activity.
- 107.23 General duties.
- 107.24 Specific powers.
- 107.25 Orders—publication.
- 107.26 Interpretation and limitations.
- 107.27 Federal Wildlife Act—assent.
- 107.28 Fish restoration projects.

107.1 Creation of commission — membership. There is hereby created a state conservation commission which shall consist of seven citizens of the state who are interested in and have substantial knowledge of the subjects embraced in this chapter. Not more than four of said members shall, when appointed, belong to the same political party. No person appointed to said commission shall during his term hold any other state or federal office.

107.2 Appointment. Said members shall be appointed by the governor with the approval of two-thirds of the members of the senate.

107.3 Full-time appointments. During the session of the general assembly in 1937 and at a corresponding time each two years thereafter, the governor shall appoint two or three members, as the case may be, for a full term of six years.

107.4 Vacancies. In case of vacancies, the governor shall appoint for the unexpired portion of the term, and if the general assembly be not then in session the governor shall, upon the convening of the general assembly promptly report said appointment to the senate for its approval.

107.5 Compensation. Each member of the commission shall receive the sum of ten dollars for each day actually and necessarily employed in the discharge of official duties, provided said compensation shall not exceed six hundred dollars for each fiscal year.

107.6 Expenses generally. The members and employees of the commission, the conservation director and the conservation officers shall be reimbursed for all actual and necessary expenses incurred by them in the discharge of their official duties when absent from their usual place of abode, unless said appointees or employees are serving under a contract which requires them to defray their own expenses.

107.7 Bonds — surety. The Conservation Commission may obtain an adequate public employees honesty blanket position bond covering all or part of the officers or employees accountable for property or funds of the state of Iowa in which case the officers or employees so covered shall not be required to furnish individual bonds. All bonds insuring the fidelity of the commissioners and of the appointees and employees of the commission shall be

signed by a surety authorized by law to execute such bonds.

107.8 Premium. The premium on the aforesaid fidelity bond shall be paid from the administration fund of the commission.

107.9 Offices. The commission shall keep its office at the seat of government. The executive council shall supply and properly furnish said rooms.

107.10 Organization and meetings. Said commission shall organize annually by the election of a chairman. The commission shall meet annually at the seat of government on the first Tuesday of January, April, July and October and at such other times and places as it may deem necessary. Meetings shall be called by the chairman on the request of two members of the commission.

107.11 Conservation director. The commission shall employ an administrative head who shall be known as state conservation director and be responsible to the commission for the execution of its policies. He shall be a person of executive ability and possess special knowledge relative to the duties herein imposed on the commission.

107.12 Term and salary. Said director shall serve during the pleasure of the commission and shall receive an annual salary as fixed by the general assembly.

107.13 Officers and employees. Said director shall, with the consent of the commission and at such salary as the commission shall fix, employ such assistants, including a professionally trained state forester of recognized standing as may be necessary to carry out the duties imposed by this chapter on the commission; also and under the same conditions, said director shall appoint such officers as may be necessary to enforce the laws, rules, and regulations, the enforcement of which are herein imposed on said commis-

sion. Said officers shall be known as state conservation officers. The salaries of the state conservation officers shall be thirty-seven hundred eighty dollars (3,780) per year for the first year of service. A salary increase of fifteen dollars per month shall be granted to each officer at the end of the first year and every six months thereafter until an annual salary rate of forty-six hundred eighty dollars (\$4,680.00) is reached. Thereafter conservation officers shall be paid additional compensation in accordance with the following formula: When conservation officers have served for a period of five years their compensation then being paid shall be increased by the sum of fifteen dollars per month beginning with the month succeeding the foregoing described five-year period; when conservation officers have served for a period of ten years their compensation then being paid shall be increased by the sum of fifteen dollars per month beginning with the month succeeding the foregoing described ten-year period, such sums being in addition to the increases provided herein to be paid after five years of service; when conservation officers have served for a period of fifteen years their compensation then being paid shall be increased by the sum of fifteen dollars per month beginning with the month succeeding the foregoing fifteen-year period, such sums being in addition to the increases previously provided for herein; when conservation officers have served for a period of twenty years their compensation then being paid shall be increased by the sum of fifteen dollars per month beginning with the month succeeding the foregoing described twenty-year period, such sums being in addition to the increases previously provided for herein. In order to receive the additional compensation herein provided, all years of continuous employment with the state shall be included in computing length of service.

107.14 Conservation officers. No person shall be appointed as a conservation officer

until he has satisfactorily passed a competitive examination, held under such rules as the commission may adopt, and other qualifications being equal only those of highest rank in examinations shall be appointed.

107.15 Peace officers. Conservation officers shall have the power of, and be deemed peace officers within the scope of the duties herein imposed on them. The conservation officers are likewise given the power of peace officers with respect to all violations of the motor vehicle laws and all public offenses committed in their presence.

107.16 Removal. The appointees and employees aforesaid may be removed by the said director at any time subject to the approval of the commission.

107.17 Funds. The financial resources of said commission shall consist of three funds:

1. A state fish and game protection fund,
2. A state conservation fund, and
3. An administrative fund.

The state fish and game protection fund, except as otherwise provided, shall consist of all moneys accruing from license fees and all other sources of revenue arising under the division of fish and game.

The conservation fund, except as otherwise provided, shall consist of all other funds accruing to the conservation commission.

The administration fund shall consist of an equitable portion of the gross amount of the two aforesaid funds, to be determined by the commission, sufficient to pay the expense of administration entailed by this chapter.

107.18 Report of funds. The conservation director shall, at least monthly, make return and pay to the treasurer of state all moneys then in his hands belonging to the aforesaid funds.

107.19 Expenditures. All funds accruing to the fish and game protection fund, except the

said equitable portion, shall be expended solely in carrying on the activities embraced in the division of fish and game.

All administrative expense shall be paid from the administration fund.

All other expenditures shall be paid from the conservation fund.

All expenditures under this act (46GA, ch13) shall be subject to approval by the state comptroller.

107.20 Limitation to state lands—exception.

Any and all funds appropriated to the state conservation commission which are used in growing or handling nursery stock shall be used for growing or handling of such stock for distribution only on state-owned lands. Provided, however, that the commission may continue to produce and sell at private sale game cover packets and trees for erosion control such as are now offered for sale by it, and may continue to produce trees for a demonstration windbreak in each township in the state, and may dispose of trees now growing under the present plan of distribution.

107.21 Divisions of department. The department of conservation, herein created, shall consist of the following divisions:

1. A division of fish and game which shall include matters relating to fish and fisheries, waterfowl, game, fur-bearing and other animals, birds, and other wildlife resources.

2. A division of lands and waters which shall include matters relating to state waters, state parks, forests and forestry, and lakes and streams, including matters relating to scenic, scientific, historical, archaeological, and recreational matters.

3. A division of administration which shall include matters relating to accounts, records, enforcement, technical service, and public relations.

107.22 Political activity. No member, officer, or employee of the commission shall, directly or indirectly, exert his influence to in-

duce any other officers or employees of the state to adopt his political views, or to favor any particular candidate for office, nor shall such member, officer, or employee contribute in any manner, directly or indirectly, any money or other things of value to any person, organization or committee for political campaign or election purposes. Any person violating this section shall be removed from his office or position.

107.23 General duties. It shall be the duty of the commission to protect, propagate, increase and preserve the fish, game, fur-bearing animals and protected birds of the state and to enforce by proper actions and proceedings the laws, rules and regulations relating thereto. The commission shall collect, classify, and preserve all statistics, data and information as in its opinion shall tend to promote the objects of this chapter; shall conduct research in improved conservation methods and disseminate information to residents of Iowa in conservation matters.

Upon the issuance of such data and information in printed form to private individuals, groups or clubs, the commission shall be entitled to charge therefor the actual cost of printing and publication as determined by the State Printer.

107.24 Specific powers. The commission is hereby authorized and empowered to:

1. Expend any and all moneys accruing to the fish and game protection fund from any and all sources in carrying out the purposes of this chapter; any act or acts, not consistent with this provision are hereby repealed so far as they may apply to the fish and game protection fund.

2. Acquire by purchase, condemnation, lease, agreement, gift and devise lands or waters suitable for the purposes hereinafter enumerated, and rights of way thereto, and to maintain the same for the following purposes, to wit:

- a. Public hunting, fishing and trapping

grounds and waters to provide areas in which any person may hunt, fish, or trap in accordance with the provisions of the law and the regulations of the commission;

b. Fish hatcheries, fish nurseries, game farms and fish, game, fur-bearing animals and protected bird refuges;

3. Extend and consolidate lands or waters suitable for the above purposes by exchange for other lands or waters and to purchase, erect and maintain buildings necessary to the work of the commission.

4. Capture, propagate, buy, sell, or exchange any species of fish, game, fur-bearing animals and protected birds needed for stocking the lands or waters of the state, and to feed, provide and care for such fish, animals and birds;

5. The commission is hereby authorized to adopt and enforce such departmental rules governing procedure as may be necessary to carry out the provisions of this chapter; also to carry out any other laws the enforcement of which is vested in the commission;

6. The commission is hereby further authorized to adopt, publish and enforce such administrative orders as are authorized in section 109.38.

7. Pay the salaries, wages, compensation, traveling and other necessary expenses of the state conservation commissioners, state conservation director, state conservation officers and other employees of the commission, and to expend money for the carrying into effect the purposes of this chapter;

8. Control by shooting or trapping any fish, game, fur-bearing animals and protected birds for the purpose of preventing the destruction of or damage to private or public property for such purpose without the consent of the owner or occupant thereof.

9. Provide for the protection against fire and other destructive agencies on state and privately owned forest and wildlife areas, and

to cooperate with federal and other state agencies in protection programs approved by the conservation commission, and with the consent of the owner or privately owned areas.

107.25 Orders—publication. Administrative orders shall be made only after an investigation of the matter concerned and shall take effect, unless otherwise designated in the order after publication in at least one newspaper having circulation in the territory affected. A copy of all such orders shall before publication be filed with the secretary of state.

107.26 Interpretation and limitations. The foregoing sections shall not be construed as authorizing the commission to change any penalty for violating any game law or regulation, or change the amount of any license established by the legislature, or to promulgate any open season on any fish, animal, or bird contrary to the laws of the state of Iowa, or to extend except as provided in this chapter any open season or bag limit on any kind of fish, game, fur-bearing animals or of any birds prescribed by the laws of the state of Iowa or by federal laws or regulations, or to contract any indebtedness or obligation beyond the funds to which they are lawfully entitled.

107.27 Federal Wildlife Act — assent. The state of Iowa hereby assents to the provisions of the Act of Congress entitled "An act to provide that the United States shall aid the states in wildlife restoration projects, and for other purposes," approved September 2, 1937 (50 Stat.L. 917), and the state conservation commission is hereby authorized and empowered to perform such acts as may be necessary to the conduct and establishment of cooperative wildlife restoration projects, as defined in said Act of congress, in compliance with said Act and with rules and regulations promulgated by the secretary of agriculture thereunder; and no funds accruing to the state of Iowa from license fees paid by hunt-

ers shall be diverted for any other purpose than as set out in sections 107.17 and 107.19.

107.28 Fish restoration projects. The state of Iowa hereby assents to the provisions of the Act of Congress entitled "An act to provide that the United States shall aid the states in fish restoration projects and for other purposes", approved August 9, 1950, Public Law 681, and the state conservation commission is hereby authorized and empowered to perform such acts as may be necessary to the conduct and establishment of cooperative fish restoration projects, as defined in said Act of Congress, in compliance with said Act and with rules and regulations promulgated by the secretary of the interior thereunder; and no funds accruing to the state of Iowa from license fees paid by fishermen shall be diverted for any other purposes than as set out in sections 107.17 and 107.19.

CHAPTER 108

ACQUISITION OF LANDS BY CONSERVATION COMMISSION

Referred to in §109.1

108.1 to 108.6, inc. Repealed by 57 GA, ch 80, section 1.

108.7 Stream control on private lands.

108.8 Jurisdiction—public access.

108.9 Accreted land.

108.10 Artificial lakes—soil conservation.

108.1 to 108.6, inc. Repealed by 57GA, ch 80, section 1.

108.7 Stream control on private lands. Upon receiving consent in writing from the owner thereof, the state conservation commission may enter upon private lands containing waters and streams draining into state-owned lakes and streams, for any or all of the following purposes:

1. Deepening.
2. Filling.
3. Widening.
4. Contracting.

5. Improving and protecting banks.
6. Constructing spillways and discharge structures.

7. Controlling erosion on land tributary thereto.

8. Providing structures or other works conducive to the regulation of stream flow.

Any action taken by the commission under the provisions of this section shall be subject to the approval of the Iowa natural resources council.

108.8 Jurisdiction — public access. Any such agreement with any landowner shall give the commission jurisdiction of such land, waters, and streams, to accomplish the purpose set out in said agreement, and in case any improvement contemplated by section 108.7 is for the sole purpose of improving any stream and not mainly for the purpose of preventing silting in a state-owned lake, then said agreement with the landowner shall include an easement of public access to said stream where improved and along the banks thereof.

108.9 Accreted land. Any land created, by any such improvement, in areas now under the jurisdiction of the state will remain under such jurisdiction until otherwise disposed of.

108.10 Artificial lakes — soil conservation. In the construction of artificial lakes on intermittent streams, for which funds may hereafter be appropriated by the general assembly, the state conservation commission shall not proceed with actual construction work unless and until soil conservation practices are in effect on at least seventy-five percentum of the land comprising the watershed of the proposed impoundment, or a willingness to carry on such practices shall have been shown by the owners or operators of seventy-five percentum of said land by signing of a soil conservation farm plan and cooperative agreements with the local soil conservation district governing body.

CHAPTER 106

WATER NAVIGATION REGULATIONS

Acts of 59 G.A., ch. 87

Referred to in §109.1

- 106.1 Declaration of policy.
- 106.2 Definitions.
- 106.3 Powers and duties of state conservation commission.
- 106.4 Operation of unnumbered motorboats prohibited.
- 106.5 Registration and identification number.
- 106.6 Exemption from registration provisions of this chapter.
- 106.7 Collisions, accidents and casualties.
- 106.8 Transmittal of information.
- 106.9 Classification and required equipment.
- 106.10 Boat liveries.
- 106.11 Muffling devices.
- 106.12 Prohibited operation.
- 106.13 Penalty.
- 106.14 Operating vessel while intoxicated or under influence of drugs.
- 106.15 Water skis and surfboards.
- 106.16 Regattas, races, marine parades, tournaments or exhibitions.
- 106.17 Local regulations restricted.
- 106.18 Owner's civil liability.
- 106.19 Inspectors, water safety patrolmen and conservation officers.
- 106.20 Boat Inspection.
- 106.21 Fees.
- 106.22 Engineer or pilot license.
- 106.23 Suspension or revocation.
- 106.24 Overloading of vessels.
- 106.25 Penalty.
- 106.26 Right-of-way rules.
- 106.27 Removal of non-permanent structures.
- 106.28 Unworthy vessels drydocked.
- 106.29 Ocial duty exempted.
- 106.30 Aircraft restriction.
- 106.31 Artificial lakes.
- 106.32 Regulations for buoys.
- 106.33 Driving over ice.

106.1 Declaration of Policy. It is the policy of this state to promote safety for persons and property in and connected with the use, operation and equipment of vessels and to promote uniformity of laws relating thereto.

106.2 Definitions. As used in this Chapter, unless the context clearly requires a different meaning:

1. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

2. "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, or vessel propelled attached to another craft which is propelled by machinery.

3. "Owner" means a person, other than a lien holder, having the property right in or title to a motorboat or vessel. The term includes a person entitled to the use or possession of a vessel or motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security.

4. "Waters of this state under the jurisdiction of the state conservation commission" means any navigable waters within the territorial limits of this state, and the marginal river areas adjacent to this state, exempting only farm ponds, privately owned lakes and waters specifically delegated to local authorities.

5. "Farm pond" means a body of water wholly on the lands of a single owner, or a group of joint owners, which does not have any connection with any public waters and is less than ten surface acres.

6. "Person" means an individual, partnership, firm, corporation or association.

7. "Operate" means to navigate or otherwise use a vessel or motorboat.

8. "Navigable waters" means all lakes, riv-

ers and streams, which can support a vessel capable of carrying one or more persons during a total of six months period in one out of every ten years.

9. "Watercraft" means any vessel which through the buoyance force of water floats upon the water and is capable of carrying one or more persons.

10. "Undocumented vessel" means any vessel which is not required to have, and does not have, a valid marine document issued by the bureau of customs or a foreign government.

11. "Commission" means state conservation commission.

12. "Privately owned lakes" means any lake, located within the boundaries of this state and not subject to federal control covering navigation owned by an individual, group of individuals or a nonprofit corporation and which is not open to the use of the general public but is used exclusively by the owners and their personal guests.

106.3 Powers and Duties of State Conservation Commission. The state conservation commission is hereby vested with the power and is charged with the duty of observing, administering and enforcing the provisions of this Chapter.

The state conservation commission is hereby authorized to adopt, promulgate and enforce such rules and regulations as may be necessary to carry out the provisions of this Chapter.

106.4 Operation of Unnumbered Motorboats Prohibited. Every undocumented motorboat on the waters of this state under the jurisdiction of the state conservation commission and waters specifically delegated to local authorities shall be numbered. No person shall operate, maintain or give permission for the operation or maintenance of any such vessel on such waters unless the vessel is numbered in accordance with this Chapter or in accordance with applicable federal laws or in

accordance with a federally approved numbering system of another state and unless the certificate of number awarded to such vessel is in full force and effect and the identifying number set forth in the certificate of number is displayed on each side of the bow of such vessel.

106.5 Registration and Identification Number.

1. The owner of each motorboat requiring numbering by this state shall be registered every two years with the commission. The owner of such motorboat shall file an application for registration with the commission on forms approved by it. The application shall be signed by the owner of the motorboat and shall be accompanied by a fee of four dollars. Upon receipt of the application in approved form, the commission shall enter the same upon the records of its office and shall issue to the applicant a pocket size registration certificate. The registration certificate shall bear thereon the number awarded to such motorboat, the passenger capacity of such vessel and the name and address of the owner. The registration certificate shall be carried either in the motorboat or on the person of the operator of such vessel when in use.

The owner shall cause the identification number to be painted on or attached to each side of the bow of the motorboat in such size and manner as may be prescribed by the rules and regulations of the commission and shall be maintained in a legible condition at all times.

No number, other than the number awarded to a vessel under the provisions of this Chapter or granted reciprocity pursuant to this Chapter, shall be painted, attached or otherwise displayed on either side of the bow of such vessel.

The owner of each vessel must display and maintain, in a legible manner and in a prominent spot on the exterior of such vessel, other than the bow, the passenger capacity of the vessel which must conform with the pas-

senger capacity designated on the registration certificate.

2. The commission may issue a certificate to dealers and manufacturers which may be used on different vessels at different times, when such vessels are used as demonstrators or experimental craft. The word "manufacturer" or "dealer" shall be plainly marked on each such certificate. The manufacturer or dealer shall have the number so awarded printed upon or attached to a removable sign or signs to be temporarily but firmly mounted upon or attached to the vessel being demonstrated or tested and the display must meet the requirements of this Chapter and the rules and regulations of the commission.

3. The owner of any vessel already covered by a number in full force and effect, which has been awarded to it pursuant to then operating federal law, shall not be required to register such vessel under the provisions of this Chapter for one year from the date of approval of such numbering system by the United States coast guard unless such number expires prior to that time.

4. Upon transfer of ownership of any motorboat, the owner shall within five days surrender the registration certificate to the commission and report the name and address of the purchaser and the date of transfer. Within five days the purchaser shall file a new application form with the commission with a fee of one dollar and a transfer of number shall be awarded in the same manner as provided for in an original registration.

5. All fees collected for the registration of vessels shall be forwarded by the commission to the treasurer of the state, who shall place such money in a conservation fund. The money so collected shall be appropriated by the legislature to the commission solely for the administration and enforcement of navigation laws and water safety.

6. When an agency of the United States government shall have in force an over-all system of identification numbering for motor-

boats, the numbering system prescribed by the commission pursuant to this Chapter, shall be in conformity therewith.

7. Every registration certificate and number issued hereunder shall expire at midnight July 3, 1963 and every two years thereafter unless sooner terminated or discontinued in accordance with the provisions of this Act. Registration certificates and numbers may be renewed upon application of the owner in the same manner as provided for in securing the original registration.

8. Whenever any person, after registering a vessel, moves from the address shown on the registration certificate, he shall, within ten days, notify the commission in writing of his old and new address.

Whenever the name of any person, who has registered a vessel, is thereafter changed by marriage or otherwise, he shall, within ten days, notify the commission of such former and new name.

If a registration certificate is lost, mutilated or becomes illegible, the owner shall immediately make application for and obtain a duplicate registration certificate by furnishing information satisfactory to the commission.

A fee of one dollar shall be paid to the commission for a duplicate registration certificate.

If a vessel, registered under the provisions of this Chapter, is destroyed or abandoned, such destruction or abandonment shall be reported to the commission and the registration certificate shall be forwarded to the office of the commission within ten days after such destruction or abandonment.

9. All records of the commission, made or kept pursuant to this Act, shall be public records.

106.6 Exemption from Registration Provisions of this Chapter. A vessel shall not be required to be registered if it is:

1. Covered by a number in full force and effect which has been awarded to it pursuant

to federal law or a federally-approved numbering system of another state if such vessel shall not have been within this state for a period in excess of ninety days within one calendar year.

2. Foreign vessels temporarily using the navigable waters of the United States and of this state.

3. A public vessel of the United States, a state or subdivision thereof.

4. A vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto.

5. A ship's lifeboat.

6. A type of vessel which has been exempted from registration by the commission after said commission has found that the registration or numbering of such vessel will not materially aid in their identification and such vessel would be exempt from numbering if it were subject to federal law.

106.7 Collisions, Accidents and Casualties.

1. The operator of a vessel involved in a collision, accident or other casualty shall, so far as possible without serious danger to his own vessel, crew or passengers, render to other persons affected by the collision, accident or casualty, such assistance as may be practicable and necessary to save them from or minimize any danger caused by the collision, accident or other casualty. He shall also give his name, address and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident or other casualty.

2. Whenever any vessel numbered under this Chapter is involved in a collision, accident or casualty which results in loss of life, injury requiring medical attention, or property damage in excess of one hundred dollars, the operator of such vessel shall file with the commission a report of the occurrence, in writing, and containing such information as the commission may, by regulation, require. Said report shall be submitted within forty-eight

hours in death cases and within five days in other cases.

106.8 Transmittal of Information. When any request is duly made by an authorized official or agency of the United States, any information compiled or otherwise available to the commission under this Chapter, such information shall be transmitted to said official or agency.

106.9 Classification and Required Equipment.

1. Vessels subject to the provisions of this Chapter shall be divided into four classes as follows:

Class I. Less than sixteen feet in length.

Class II. Sixteen feet or over and less than twenty-six feet in length.

Class III. Twenty-six feet or over and less than forty feet in length.

Class IV. Forty feet or over.

2. Every vessel, in all weathers, from sunset to sunrise, shall carry and exhibit the following lights when under way, and during such time shall exhibit no other lights which may be mistaken for those required.

a. Every motorboat of class I and II shall carry the following lights:

(1) A bright white light aft to show all around the horizon.

(2) A combined lantern in the fore part of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two points abaft the beam on their respective sides.

b. Every motorboat of classes III and IV shall carry the following lights:

(1) A bright white light in the fore part of the vessel as near the bow as practicable, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel; namely, from right ahead to two points abaft the beam on either side.

(2) A bright white light aft to show all around the horizon and higher than the white light forward.

(3) A green light on the starboard side so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side. A red light on the port side, so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass so fixed as to throw the light from right ahead to two points abaft the beam on the port side. The said side lights shall be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow.

c. Vessels of class I and II, when propelled by sail alone, shall carry the combined lantern, but not the white light aft prescribed by this section. Vessels of classes III and IV when so propelled, shall carry the colored side lights, suitably screened, but not the white lights required by this section.

d. Vessels of all classes, other than motorboats and sailboats, shall carry ready at hand a lantern or flashlight showing white light which shall be exhibited in sufficient time to avert collision.

e. Every white light required by this section shall be of such character as to be visible at a distance of at least two miles. Every colored light required by this section shall be of such character as to be visible at a distance of at least one mile. The term "visible" in this section, when applied to light, shall mean visible on a dark night with clear atmosphere.

f. When propelled by sail and machinery, such motorboat shall carry the lights required by this section for a motorboat propelled by machinery only.

3. Every vessel shall carry and exhibit such other lights required by the rules and regulations of the commission.

4. Every motorboat of class II, III or IV

shall be provided with an efficient whistle or other sound producing appliance.

5. Every motorboat of class III or IV shall be provided with an efficient bell.

6. Every vessel shall carry at least one life preserver, life belt, ring buoy or other device, of the sort prescribed by the regulations of the commission, for each person on board, so placed as to be readily accessible.

7. Every motorboat shall be provided with such number, size and type of fire extinguishers capable of promptly and effectually extinguishing burning gasoline, as may be prescribed by the regulations of the commission. Such fire extinguishers shall, at all times, be kept in condition for immediate and effective use and shall be so placed as to be readily accessible.

8. The provisions of subsections four (4), five (5) and seven (7) of this section shall not apply to motorboats while competing in any race conducted pursuant to section 106.16, or, if such boats are designed and solely used for racing, while engaged in such navigation as is incidental to the tuning up of the boats and engines for the race.

The operator of a motor boat, while engaged in such race, must wear a crash helmet and life preserver.

9. Every motorboat shall have the carburetor or carburetors of every engine therein, except outboard motors, using a liquid of a volatile nature as fuel, equipped with such efficient flame arrestor, backfire trap or other similar device as may be prescribed by the rules and regulations of the commission.

10. Every motorboat, except open boats, using any liquid of a volatile nature as fuel, shall be provided with such means as may be prescribed by the rules and regulations of the commission for properly and efficiently ventilating the bilges of the engines and fuel tank compartments so as to remove any explosive or inflammable gases.

11. The commission is hereby authorized to make rules and regulations modifying the

equipment requirements contained in this section to the extent necessary for the safety of operators and passengers.

12. The commission is hereby authorized to establish such pilot rules as may be necessary for the safe operation of vessels on the waters of this state under the jurisdiction of the commission.

13. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

106.10 Boat Liveries.

1. The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated for hire, the identification number thereof, the departure date and time and the expected time of return. The records shall be preserved for six months.

2. The owner of a boat livery shall not permit any of his vessels, operated for hire, to depart from his premises unless it shall have been provided, either by the owner or renter, with the equipment required by the commission.

106.11 Muffling Devices. The exhaust of every internal combustion engine used on any motorboat shall be effectively muffled by equipment so constructed and used as to muffle the noise of the exhaust in a reasonable manner. The use of cutouts is prohibited, except for motorboats competing in a regatta or boat race approved as provided in section 106.16 and for such motorboats while on trial run during a period not to exceed forty-eight hours immediately preceding such regatta or race and for such motorboats while competing in official trials for speed records during a period not to exceed forty-eight hours immediately following such regatta or race.

106.12 Prohibited Operation.

1. No person shall operate any vessel, or

manipulate any water skis, surfboard or similar device in a careless, reckless or negligent manner so as to endanger the life, limb or property of any person.

2. No person shall operate any vessel, or manipulate any water skis, surfboard or similar device while intoxicated or under the influence of any narcotic drug, barbiturate or marijuana.

106.13 Penalty. Any person violating any of the provisions of this Chapter, for which another penalty is not otherwise specifically provided, shall, upon conviction or a plea of guilty, be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days.

106.14 Operating Vessel While Intoxicated or Under Influence of Drugs. Whoever, while in an intoxicated condition or under influence of narcotic drugs, operates a vessel or manipulates any water skis, surfboard or similar device upon the public waters of this state, shall, upon conviction or a plea of guilty be punished, for the first offense by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for a period of not to exceed one year, or by both such fine and imprisonment; for the second offense by a fine of not less than five hundred dollars, nor more than one thousand dollars, or by imprisonment in the penitentiary for a period of not to exceed one year, or by both such fine and imprisonment; and for a third offense and each offense thereafter, by imprisonment in the penitentiary for a period not to exceed three years.

The court shall also, in pronouncing sentence, provide for the revocation of the pilot's and engineer's license of the defendant, if any, and the immediate surrender of the defendant's liquor permit issued under chapter one hundred twenty-three (123). The clerk of court shall immediately certify to the com-

mission a true copy of the judgment sentencing the defendant under this Chapter.

The court, in pronouncing sentence, may provide as to the period during which a pilot's and engineer's license shall not be issued or reissued to the defendant, provided said period shall be not less than sixty days nor more than one year from the date of sentence or revocation. If the court does not so provide, the commission may issue or reissue such license only upon application by the defendant after the expiration of a sixty day period following the date of sentencing.

The liquor control commission shall not issue the defendant a new liquor permit until such time as the court or judge of the court having original jurisdiction of the defendant, for good cause shown, shall so certify to the liquor control commission.

106.15 Water Skis and Surfboards.

1. No person shall operate a vessel on any water of this state under the jurisdiction of the commission for towing a person or persons on water skis, surfboard or similar device unless there is in such vessel a responsible person, in addition to the operator, in a position to observe the progress of the person or persons being towed.

2. No person shall operate a vessel on any waters of this state under the jurisdiction of the commission, towing a person or persons on water skis, surfboard or similar device, nor shall any person engage in water skiing, surfboarding or similar activity at any time between the hours from one hour after sunset to one hour before sunrise.

3. The provisions of subsections one (1) and two (2) of this section do not apply to a performer engaged in a professional exhibition or a person or persons engaged in a professional exhibition or a person or persons engaged in an activity authorized under section 106.16.

106.16 Regattas, Races, Marine Parades, Tournaments or Exhibitions.

1. The commission may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments or exhibitions on any waters of this state under the jurisdiction of the commission. The commission shall adopt and may, from time to time, amend regulations concerning the safety of vessels and persons, either observers or participants. If a regatta, motorboat or other boat race, marine parade, tournament or exhibition is proposed to be held, the person in charge thereof shall file an application with the commission for permission to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition. The application shall set forth the date, time and location where it is proposed to hold such regatta, motorboat or other boat race, marine parade, tournament or exhibition and it shall not be conducted without written authorization of the commission.

2. The provisions of this section shall not exempt any person from compliance with applicable federal law or regulation, but nothing contained herein shall be construed to require the securing of a state permit under this section if a permit therefor has been obtained from an authorized agency having jurisdiction of the waters where such regatta, race, marine parade, tournament or exhibition is being conducted.

106.17 Local Regulations Prohibited.

1. The provisions of this Act and other applicable laws of this state shall govern the operation, equipment, numbering and all other matters relating thereto of any vessel whenever such vessel is operated or maintained on the waters of this state under the jurisdiction of the commission, but nothing in this Chapter shall be construed to prevent the adoption of any ordinance or local law relating to the operation of equipment of vessels. Such ordinances or local law shall be operative only so long as they are not inconsistent with the

provisions of this Chapter or the rules and regulations adopted by the commission.

2. Any subdivision of this state may, but only after public notice thereof by publication in a newspaper having a general circulation in such subdivision, make formal application to the commission for special rules and regulations concerning the operation of vessels on any waters within its territorial limits and shall set forth therein the reasons which make such special rules or regulations necessary or appropriate.

3. The commission is hereby authorized upon application of local authorities to make special rules and regulations, in conformity with this Chapter, concerning the operation of vessels on any waters of this state under the jurisdiction of the commission within the territorial limits of any subdivision of this state.

106.18 Owner's Civil Liability. The owner and operator of any undocumented vessel shall be liable for any injury or damage occasioned by the negligent operation of such vessel.

106.19 Inspectors, Water Safety Patrolmen and Conservation Officers. The commission shall appoint one or more qualified persons as boat inspectors and water safety patrolmen.

Boat inspectors, water safety patrolmen and conservation officers are herewith vested with the powers and charged with the duties of peace officers in enforcing the provisions of this Chapter.

106.20 Boat Inspection. Any person having, upon any waters of this state under the jurisdiction of the commission, any vessel, either for hire or offered for hire, must have such vessel and all its appurtenances annually inspected.

Every such owner shall file in the office of the commission, an application for inspection of such vessels on a blank furnished by the commission for that purpose.

Boat inspectors, conservation officers and

water safety patrolmen shall have the power and authority to determine whether such vessel is safe for the transportation of passengers or cargo and upon what waters it may be used. They may determine and designate the number of passengers or cargo, including crew, that may be carried and determine whether the machinery, equipment and all appurtenances are such as to make said vessels seaworthy, where used, and such other matters as are pertinent.

After such vessels have been inspected as provided herein, a current inspection seal or tag shall be issued by the commission and shall be kept posted in a conspicuous place upon or in such vessel. Any inspection seal or tag shall be in effect only for the calendar year for which the inspection seal or tag is issued.

Private vessels may also be inspected to determine their seaworthiness at any time by representatives of the commission.

106.21 Fees. The annual fee for the inspection of vessels operated for hire shall be based upon the passenger-carrying capacity, including crew, for which such vessel is registered.

Such fee shall be computed at the rate of fifty cents per person capacity, except rowboats, but shall be not less than one dollar and shall not exceed the maximum of twenty dollars. The fee for inspecting rowboats shall be one dollar per boat.

The annual fee for pilot's license is one dollar.

The annual fee for engineer's license is two dollars.

The provisions of this section shall be applicable to all vessels which are rented to the public for hire, including vessels furnished with leased cottages. If such vessels are found to be in satisfactory condition, the boat inspector shall attach thereto a small plate or inspection seal, indicating the date of inspection and the passenger-carrying capacity. The owner of such vessel shall not offer it for hire

or allow it to be so used until such inspection has been made and the vessel found to be in satisfactory condition.

There shall be no fee charged for the inspection of private vessels not used for hire.

The boat inspector or conservation officer shall collect all inspection fees and forward them to the commission.

All fees collected shall be forwarded by the commission to the treasurer of the state, who shall place such money in a conservation fund. The money so collected shall be appropriated by the legislature to the commission solely for the administration and enforcement of navigation laws and water safety.

106.22 Engineer or Pilot License. No vessel shall be operated for hire by a pilot or engineer upon the waters of this state under the jurisdiction of the commission unless he first obtains an engineer's or pilot's license. A pilot's license is required for any person who has charge of the steering or directing of the vessel's course or who does the steering or directs the vessel's course. An engineer's license is required for all operators who have charge of or operate the equipment by which the boat is propelled. If one person acts in a dual or alternate capacity, he shall first obtain both an engineer's and pilot's license.

Any person desiring a pilot's or engineer's license shall file an application with the commission upon forms prepared and furnished by the commission. Such license may be issued by the commission only upon recommendation of a boat inspector, water safety patrolman or conservation officer duly authorized by the commission. Before the boat inspector, water safety patrolman or conservation officer recommends such a license, he shall investigate the competency of the applicant, his acquaintance with and experience in boat work, his habits as to sobriety, his mental and physical qualifications for the work, his acquaintance with the waters for which application to operate upon is made, his fa-

miliarity with the laws and regulations pertaining to the vessel operation and all other pertinent matters. Such license shall not be issued to anyone under eighteen years of age.

Engineer's and pilot's licenses shall be in effect only for the calendar year in which such license is issued.

106.23 Suspension or Revocation.

1. The boat inspector, water safety patrolman or conservation officer may, for cause, temporarily suspend the registration certificate of any vessel and the license of a pilot or engineer, that has been issued under this Chapter, and the commission, after a due hearing on the matter at its next session, shall make final determination in the matter.

2. The commission shall forthwith revoke the registration certificate of any vessel and the pilot's or engineer's license of the operator of such vessel upon receiving a record of such owner or operator's conviction of any of the following offenses, when such conviction has become final.

a. Manslaughter resulting from the operation of a vessel.

b. Operating a vessel or manipulating water skis, surfboard or similar device while in an intoxicated condition or under influence of a narcotic drug.

c. Failure to stop and render aid as required by this Chapter when a collision, accident or other casualty results in the death or personal injury of another.

d. Perjury or the making of a false affidavit or statement under oath to the commission under this Chapter relating to the ownership or operation of a vessel.

3. The commission is hereby authorized to suspend the registration certificate of any vessel and the pilot's or engineer's license of an operator upon a showing by its records that the owner or operator:

a. Has committed an offense for which mandatory revocation of registration certificate or pilot's or engineer's license is required upon conviction.

b. Is a habitual reckless or negligent operator of a vessel.

c. Is incompetent to operate a vessel.

d. Has permitted an unlawful or fraudulent use of such registration certificate or pilot's or engineer's license.

106.24 Overloading of Vessels. No person owning or operating a vessel shall permit said vessel to be occupied by more passengers and crew than the registration capacity permits.

106.25 Penalty. If any owner, agent or master of any vessel, plying the waters of this state, shall hire or offer for hire, such vessel for the carrying of a person or persons thereon, without first obtaining annually, a permit as in this Chapter required, and before operating such vessel in such service; or if the owner, agent or master, having obtained such permit, receives for carriage or permits carriage on such vessel a greater number of persons than authorized therein, or if any person acts as pilot or engineer on any vessel for which inspection and registration are required, without first obtaining a permit therefor; or if such pilot or engineer continues to follow such avocation after the same has been revoked or expired, he shall be fined in a sum not to exceed one thousand (1000) dollars or imprisoned in the county jail not to exceed one year or punished by both such fine and imprisonment. The provisions of this section shall not apply to vessels registered or numbered by authority of the United States.

106.26 Right-of-way Rules. Vessel traffic shall be governed by the following rules:

1. Passing from rear — keep to the operator's left.

2. Passing head on — keep to the operator's right.

3. Passing at right angles — vessel at the right has the right-of-way.

4. Manually propelled vessels have the right-of-way over all other vessels.

5. Sailboats have the right-of-way over all motor driven vessels. Motorboats, when meeting or overtaking sailboats, shall always pass on the leeward side.

6. Any vessel backing from a landing has the right-of-way over incoming vessels.

7. The commission is authorized to promulgate further rules and regulations governing vessel traffic.

106.27 Removal of Nonpermanent Structures. Every vessel or structure, not considered a permanent structure by the commission or excepted by the regulations of the commission, shall be removed from the waters of this state under the jurisdiction of the commission on or before December fifteen of each year.

106.28 Unworthy Vessels Drydocked. No person shall place or allow to remain in the waters of this state under the jurisdiction of the commission, any vessel which has failed to pass inspection.

106.29 Official Duty Exempted. Members of the commission, its deputies, agents and employees shall not be deemed violating the provisions of this Chapter while on emergency duty and acting within the scope of their employment.

106.30 Aircraft Restriction. It shall be unlawful for any aircraft to make use of the inland lakes of the state, except in the transportation of persons or property between points separated by a distance of thirty miles or more. Nothing herein shall prohibit the use of such waters by any aircraft in danger or distress or the use of such waters by the operators of private aircraft, not operated for hire. The foregoing provisions notwithstanding, the commission may, on the recommendation of the Iowa aeronautics commission, designate certain areas on inland lakes of the state where seaplane flight instructions may be conducted under such conditions as may

be adopted by the commission and the Iowa aeronautics commission.

106.31 Artificial Lakes.

1. No motorboats with inboard motor; motorboats of plane or gliding type, including combination plane and displacement types, propelled by an outboard motor; rowboats of displacement type with outboard motor, shall be permitted on any artificial lake under the jurisdiction of the commission except that rowboats or motorboats equipped with an outboard motor, not to exceed six horsepower shall be permitted upon any artificial lake of one hundred acres or more in size.

2. No person shall operate any sailboat on any artificial lake under the jurisdiction of the commission except those lakes specifically designated by the commission. All sailboats, so operated, must be of a type and size approved by the commission.

3. All privately-owned boats on artificial lakes under the jurisdiction of the commission shall be kept at locations designated by the commission.

4. All privately-owned rowboats, used on or kept at the artificial lakes under the jurisdiction of the commission, shall be seaworthy for the waters where they are kept and used. All such boats shall be removed from state property whenever ordered by the commission, and, in any event, shall be removed from such property not later than December fifteen of each year.

106.32 Regulations for Buoy.

1. No private buoy shall be maintained in the waters of this state under the jurisdiction of the commission except as specified by the rules and regulations of the commission.

2. No other obstruction of any kind shall be maintained in the waters of this state under the jurisdiction of the commission without first receiving permission from the commission to maintain such obstruction.

3. It shall be unlawful to tamper with,

move or attempt to move any state-owned buoy.

4. No boat shall be anchored away from shore and left unguarded unless it is attached to a legal buoy.

106.33 Driving over Ice. No craft or vehicle operating on the surface of ice on the inland lakes and streams of this state and propelled by machinery in whole or in part, except ice-cutting machinery, automobiles, motorcycles and trucks when such are used without endangering public safety, shall be operated without a permit issued, by the commission, for such operation. Any such permit issued may be revoked by the commission if such craft or vehicle is operated in a careless manner as endangers others.

Chapter 106A

USE OF STATE WATERS BY NONRESIDENTS

Acts of 59 G.A., Chapter 88
See §321.498 et seq. for similar provisions

An Act relating to the use, operation or maintenance of watercraft in the waters of this state by nonresidents.

- 106A.1 Legal effect use and operation.
- 106A.2 "Person" defined.
- 106A.3 Original notice—form.
- 106A.4 Manner of service.
- 106A.5 Notification to nonresident—form.
- 106A.6 Option notification.
- 106A.7 Proof of service.
- 106A.8 Actual service within this state.
- 106A.9 Venue of action.
- 106A.10 Continuances.
- 106A.11 Duties of secretary of state.
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106A.1 Legal effect use and operation. The use, operation or maintenance by any non-

resident of watercraft in the waters of this state, shall be deemed an appointment by such nonresident of the secretary of state as his true and lawful attorney upon whom may be served all original notices of suit growing out of such use, operation or maintenance or resulting in damage or loss to person or property and said use, operation or maintenance shall be deemed an agreement by such nonresident that any original notice of suit so served shall be of the same legal force and validity as if personally served on him in his state.

106A.2 "Person" defined. The term "person" as used in this chapter means:

1. The owner of watercraft whether it is being used and operated personally by said owner or by his agent.
2. An agent using and operating the watercraft for his principal.
3. Any person who is in charge of the watercraft and of the use and operation thereof with the express or implied consent of the owner.

106A.3 Original notice—form. The original notice or suit filed with the secretary of state shall be in form and substance the same as now provided in suits against residents of this state, except that the part of said notice pertaining to the return day shall be in substantially the following form to wit:

"and unless you appear thereto and defend in the district court of Iowa in and for . . . county at the courthouse in . . . , Iowa, before noon of the sixtieth day following the filing of this notice with the secretary of state, default will be entered and judgment rendered against you."

106A.4 Manner of service. Plaintiff in any such action shall cause the original notice of suit to be served as follows:

1. By filing a copy of said original notice of suit with said secretary of state, together with a fee of two dollars, and
2. By mailing to the defendant, and to each of the defendants if more than one, within ten days after said filing with the secretary of

state, by restricted certified mail addressed to the defendant at his last known residence or place of abode, a notification of the said filing with the secretary of state.

106A.5 Notification to nonresident — form. The notification, provided for by this chapter, shall be substantially in the following form to wit:

"To _____ (Here insert the name of each defendant and his residence or last known place of abode.)

You will take notice that an original notice of suit against you, a copy of which is hereto attached, was duly served upon you at Des Moines, Iowa, by filing a copy of said notice on the _____ day of _____, 19____, with the secretary of state.

Dated at _____, Iowa, this _____ day of _____, 19____.

Plaintiff

By _____
Attorney for Plaintiff"

106A.6 Option notification. In lieu of mailing said notification to the defendant in a foreign state, plaintiff may cause said notification to be personally served in the foreign state on the defendant by any adult person not a party to the suit, by delivering said notification to the defendant or by offering to make such delivery in case defendant refuses to accept delivery.

106A.7 Proof of service. Proof of the filing of a copy of said original notice of suit with the secretary of state, and proof of the mailing or personal delivery of said notification to said nonresident shall be made by affidavit of the party doing said acts. All affidavits of service shall be indorsed upon or attached to the originals of the papers to which they relate. All proofs of service, including the restricted certified mail return receipt, shall be forthwith filed with the clerk of the district court.

106A.8 Actual service within this state. The foregoing provisions relative to service of original notice of suit on nonresidents shall not be deemed to prevent actual personal service in this state upon the nonresident in the time, manner, form and under the conditions provided for service on residents.

106A.9 Venue of action. Actions against nonresidents as contemplated by this chapter may be brought in the county of which plaintiff is a resident, or in the county in which the injury was received or damage done.

106A.10 Continuance. The court in which such action is pending shall grant such continuances to a nonresident defendant as may be necessary to afford him reasonable opportunity to defend said action.

106A.11 Duties of secretary of state. The secretary of state shall keep a record of all notices of suit filed with him, shall not permit said filed notices to be taken from his office except on an order of court and shall, on request, and without fee, furnish any defendant with a certified copy of the notice in which he is defendant.

106A.12 Expenses and attorney fees. If judgment is rendered against the plaintiff upon the trial of said action, said judgment shall include the reasonable expenses incurred by the defendant and his attorney in appearing to and defending against said action, provided that in the judgment of the trial court said action was commenced maliciously or without probable cause.

106A.13 Dismissal—effect. The dismissal of an action after the nonresident has entered a general appearance under the substituted service herein authorized, shall bar the recommencement of the same action against the same defendant unless said recommenced action is accompanied by actual personal service of the original notice of suit on said defendant in this state.

106A.14 Action against insurance. Any contract insuring the liability of a nonresident operator of a motor boat in Iowa shall, in case of the death of said nonresident, be considered an asset of his estate having a situs in Iowa in any civil action arising out of an accident in which said nonresident may be liable.

CHAPTER 109

FISH AND GAME CONSERVATION

Referred to in § 109.1, 110.14.

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- 109.114 Gar destroyed.
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- 109.116 Report of licensee.
- 109.117 Wholesale license.
- 109.118 Records and report.
- 109.119 Penalties.
- 109.120 Hunting from aircraft prohibited.
- 109.121 Turtles and crayfish—taking by non-residents or aliens.

109.1 Definitions. Words and phrases as used in chapters 106 to 112, inclusive, and such other chapters as relate to the subject matter of these chapters shall be construed as follows:

1. “Closed season”: That period of time during which hunting, fishing, trapping or taking is prohibited.
2. “Open season”: That period of time during which hunting, fishing, trapping or taking is permitted.
3. “Measurement of fish”: Length from end of nose to longest tip of tail.
4. “Person”: Person shall mean any person, firm, partnership or corporation.

5. “Sell and sale”: Selling, bartering, exchanging, offering or exposing for sale.

6. “Possession”: Both active and constructive possession and control of things referred to.

7. “Transport and transportation”: All carrying or moving or causing to be carried or moved.

8. “Take or taking or attempting to take or hunt”: Any pursuing, or any hunting, fishing, killing, trapping, snaring, netting, searching for or shooting at, stalking or lying in wait for any game, animal, bird or fish protected by the state laws or regulations adopted by the commission whether or not such game be then subsequently captured, killed or injured.

9. “Bag limit or possession limit”: The number of any kind of game, fish, bird or animal or other wildlife form permitted to be taken or held in a specified time.

10. “Contraband”: The term “contraband” as used in the laws pertaining to the work of the commission shall mean anything, the possession of which was illegally procured, or the possession of which is unlawful.

11. “Alien”: Alien shall not be construed to mean any person who has applied for naturalization papers.

12. “Director”: The term “director” shall mean the regularly appointed director of the state conservation commission and wherever such director is authorized or required to do an act, unless otherwise provided, it shall be construed as authorizing performance by a regular assistant or duly authorized agent of such director.

109.2 State ownership and title—exceptions. The title and ownership of all fish, mussels, clams, and frogs in any of the public waters of the state, and in all ponds, sloughs, bayous, or other land and waters adjacent to any public waters stocked with fish by overflow of public waters, and of all wild game, animals, and birds, including their nests and eggs, and all other wildlife, found in the state, whether game or non-game, native or migratory, ex-

cept deer in parks and in public and private reserves, the ownership of which was acquired prior to April 19, 1911, are hereby declared to be in the state, except as otherwise in this chapter provided.

109.3 Conclusive presumption. Any person catching, taking, killing, or having in possession any of such fish, mussels, clams, frogs, game, animals, or birds, their nests or eggs, or other wildlife in violation of the provisions of this chapter, shall be held to consent that the title to the same shall be and remain in the state for the purpose of regulating and controlling the catching, taking, or having in possession the same, and disposing thereof after such catching, taking, or killing.

109.4 Fish hatcheries — game farms. The state conservation director shall have the right to establish and control the state hatcheries and game farms, which shall be used for the purpose of stocking the waters of the state with fish and the natural covers with game birds to the extent of the means provided for that purpose; and impartially and equitably distribute all birds, eggs, and fry raised by or furnished to the state, or for it through other sources, in the streams, lakes, and natural covers of the state.

109.5 State game refuges. Whenever any land, stream, or lake has been declared by the state conservation commission to be a public park, and has been taken for public park purposes, or where any land is now owned and used by the state of Iowa, the state conservation director shall have the right and power to establish state game refuges or sanctuaries on such land where the same is suitable for this purpose.

109.6 Game management area. Whenever the commission shall establish and create a game management area upon any public lands or waters, or with the consent of the owner thereof upon any private lands or waters, it shall with the consent of such owner,

if any, have the right to post and prohibit, and to regulate or limit such lands against hunting, fishing or trapping, and any violation thereof shall be unlawful.

109.7 Hunting on game refuges. It shall be unlawful to hunt, pursue, kill, trap or take any wild animal, bird, or game on any state game refuge so established at any time of the year, and no one shall carry firearms thereon, providing however, that predatory birds and animals may be killed or trapped under the authority and direction of the state conservation director.

The director shall have the authority to specify the distance from a state game refuge where shooting may be prohibited, and shall have notice of same published in one newspaper in the county so affected, provided however, this prohibition shall not apply to owners or tenants hunting on their own land outside of game refuge.

109.8 Notice of establishment. Whenever any such refuge or preserve is established by the director, he shall publish one notice of such establishment in an official newspaper in the county in which the refuge is located and shall post notices in conspicuous places around said refuge.

109.9 Spawning grounds. The director will have the right to set aside certain portions of any state waters for spawning grounds where the same are suitable for this purpose for such length of time as he may deem advisable by the placing of notices around such area, and it shall be unlawful for any person to fish or to in any manner interfere with the spawning of fish in this area. Any person violating any of the provisions of this section shall be guilty of a misdemeanor.

109.10 Reports and accounting. At the time provided by law, the director shall make a report to the governor of his doings for the preceeding biennial period, including therein an itemized statement of all receipts and dis-

bursements; also all contracts for the taking of soft fish from the waters of this state, with the profits accruing from such contracts; also such other information upon the subject of fish and the protection of game as may be of value. All funds derived under said contracts shall be paid into the state fish and game protection fund.

109.11 Arrests—assistance of peace officers.

State conservation officers may arrest without warrant any person violating the provisions of this chapter. They may serve and execute any warrant or process issued by any court in enforcing said provisions, in the same manner as any peace officer might serve and execute the same and they shall receive the same fee therefor. They may call to their aid any peace officer or other person whose duty shall then be to enforce or aid in enforcing the provisions of this chapter.

109.12 Seizure of unlawful game. It shall be the duty of the director, conservation officers, and police officers of the state, to seize with or without warrant and take possession of any fish, furs, birds, or animals, or mussels, clams, and frogs, except for bait which have been caught, taken, or killed at a time, in a manner, or for a purpose, or had in possession or under control, or offered for shipment, or illegally transported in the state or to a point beyond the borders thereof, contrary to the provisions of this chapter.

109.13 Search warrants. Any court having jurisdiction of the offense, upon receiving proof of probable cause for believing that any fish, mussels, clams, frogs, birds, furs, or animals caught, taken, killed, had in possession, under control, or shipped, contrary to any of the provisions of this chapter, or hidden or concealed in any place, shall issue a search warrant and cause a search to be made in any place therefor. The property so seized under such warrant shall be safely kept under the direction of the court so long as necessary

for the purpose of being used as evidence in any trial, and if such trial results in a conviction the property seized shall be confiscated by the director or his officers.

109.14 Dams—fishways. It shall be unlawful for any person, firm or corporation to place, erect, or cause to be placed or erected, any dam or other device or contrivance in such manner as to hinder or obstruct the free passage of fish up, down, or through such waters, except as otherwise provided in this chapter. Dams for manufacturing or other lawful purposes may be erected across the waters of the state. No permanent dam or obstruction across such waters shall be erected or maintained which is not provided with a fishway, except by written approval of the state conservation director, nor shall any pumping station or plant except said pumping and dredging machines, in or connected with such waters be constructed or operated except said by written approval of the state conservation director, which is not provided with screens to prevent fish from entering the pumping or plant. Such fishways and screens shall be constructed and used according to the plans and specifications prepared and furnished by the director. Any dam, obstruction, or pumping plant which is not so constructed is a public nuisance and may be abated accordingly.

109.15 Injury to dam. It shall be unlawful for any owner or his agent to remove or destroy any existing dam, or alter it in a way so as to lower the water level, without having received written approval from the Iowa natural resources council.

109.16 Taking by director for stocking and exchange. The director may take from any of the public waters of the state, at any time and in any manner, any fish for the purpose of propagating or restocking other waters, or exchanging with fish commissioners or wardens of other states or the federal government.

109.17 Undesirable fish. It shall be the duty of the director, so far as is possible, to remove from the inland waters of the state at any time and in any manner, provided that he shall do so with minimum injury to the lake or stream or the other fish, any undesirable or injurious fish. All such fish removed shall be destroyed or disposed of so as to eliminate them, so far as is possible, from the inland waters of the state. The proceeds, if any, from the sale of these fish shall be credited to the state fish and game protection fund. Undesirable or injurious fish shall mean any species that in the judgment of the commission exist in improper portions to other aquatic life.

In the removal of undesirable and injurious fish by net or seine, other than the removal of such fish by the director, he shall enter into written contract for the taking of such fish from the public waters of the state. All such contracts shall be let to the highest bidder. Bids shall be made in percentages of gross receipts for the sale of the fish so taken, to be paid to the state, but no contract shall be let until the director shall have advertised for such bids once each week for two consecutive weeks in three newspapers of the state for general circulation.

Said advertisement for bids shall state the date, time and place at which such bids will be received. Upon receipt of the bids the director shall submit all bids received, together with the proposed contract, to the treasurer of the state for his approval, and if the treasurer of state finds that any one of the bids received from any bidder is a fair and proper bid and is one advantageous to the state, and that the person making such bid is competent and reliable, and that the contract protects the interests of the state, then he shall approve the bid and contract, but if he finds that the contract does not fairly protect the interests of the state, he shall reject all bids and contracts; and then the director shall re-advertise in the same manner and for the

same length of time as heretofore provided, and the bids and contracts shall again be submitted to the treasurer of state for his approval as heretofore provided, until a fair, proper and reliable bidder is received and found. All contracts for the removal of rough fish from any waters of the state shall not be for more than one year and shall specify:

1. The particular waters from which such fish are to be taken.

2. The compensation to be paid the state, and the times and terms of payment.

3. That no fish shall be taken except in the presence and under the supervision of some regularly employed representative of the conservation commission.

4. That all expense incurred by the commission in connection with such contract shall be paid by the person holding such contract.

5. That such contract may be forfeited and cancelled by the state in the event of a breach thereof.

6. Such other provisions for the protection of the state's interest as the director may require.

109.18 Bond. The holder of such contract shall, prior to the taking of any fish thereunder, file with the treasurer of state a corporate surety bond payable to the state of Iowa in the penal sum of one thousand dollars. Said bond to be approved by the treasurer of state. No contract shall be issued unless the bond required herein is attached to said contract and delivered to the treasurer of state. Such bond shall be conditioned for the

faithful performance of the contract, the payment of all damages resulting from a breach thereof, and such other conditions as to the director may seem right and proper.

109.19 Reciprocity of states. Any person licensed by the authorities of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, and South Dakota to take fish, game, mussels, or fur-bearing animals from or in the waters

forming the boundary between such states and Iowa, may take them from that portion of said waters lying within the territorial jurisdiction of this state, without having procured a license therefor from the state conservation director of this state, in the same manner that persons holding Iowa licenses may do, if the laws of Illinois, Minnesota, Missouri, Wisconsin, Nebraska or South Dakota, respectively, extend a similar privilege to persons so licensed under the laws of Iowa.

109.20 Parrots and canaries. This chapter shall not be construed to forbid the selling or shipping of parrots, canaries, or any other cage birds which are imported from other countries or not native to any part of the United States.

109.21 Birds as targets. No person shall keep or use any live pigeon or other bird as a target, to be shot at for amusement or as a test of skill in marksmanship, or shoot at a bird kept or used for such purposes, or be a party to such shooting, or lease any building, room, field, or premises, or knowingly permit the use thereof, for the purpose of such shooting. Nothing in this section shall prevent any person from shooting at live pigeons, sparrows, crows and starlings when used in the training of hunting dogs.

109.22 Field and retriever meets. Notwithstanding the provisions of section 109.21 it shall be lawful to hold field meets or trials and retriever meets or trials where dogs are permitted to work in exhibition or contest whereby the skill of dogs is demonstrated by retrieving dead or wounded game birds which have been propagated by licensed game breeders within the state or secured from lawful sources outside the state and lawfully brought into the state. All such birds must be released on the day of trials on premises where the trials are held.

Such birds released may be shot by official guns after having secured a permit as herein provided.

Such permits may be issued by the director of the state conservation commission upon proper application and the payment of a fee of two dollars for each trial held. A representative of the commission shall attend all such trials and enforce the laws and regulations governing same.

The person or persons designated by the committee in charge to do the shooting for such trials shall be known as the official guns, and no other person shall be permitted to kill or attempt to kill any of the birds released for such trials.

Before any birds are released under this section, they must each have attached a tag provided by the conservation commission and attached by a representative of the conservation commission at a cost of not more than ten cents for each tag. All tags are to remain attached to birds until prepared for consumption.

It is unlawful for any person to hold, conduct, or to participate in a field retriever trial before the permit required by this section has been secured or for any person to possess or remove from the trial grounds any birds which have not been tagged as herein required.

Any person who shall violate any provision of this section shall upon conviction be punished as provided in section 109.32.

109.23 Transportation for sale prohibited. It shall be unlawful for any person, firm, or corporation to offer for transportation or to transport by common carrier or vehicle of any kind, to any place within or without the state, for the purposes of sale, any of the fish, game, animals, or birds taken, caught, or killed within the state, or to peddle any of such fish, game, animals, or birds.

It shall be unlawful to ship from the state any birds caught, taken, or killed in the state, or to take, ship, or carry from the state for any purpose any such fish, game, animals, or birds unless lawfully caught, taken or killed,

by a nonresident licensee under the provisions of this chapter, who may take or carry such birds as have been lawfully caught, taken or killed, or to take, carry, or ship such fish, game, or animals as have been lawfully caught, taken or killed to his place of residence as indicated on such license.

109.24 Transportation regulations. Any person, firm, or corporation desiring the shipment or transportation of any fish or animals shall deliver to the common carrier to which the shipment is offered, a statement under oath, in duplicate, showing the name and address of the shipper, the date and number of his license, where and by what officer issued, the name and residence of the consignee to whom the shipment is made, the kind and number of fish or animals in the shipment, that the same have not been unlawfully killed, bought, sold, or had in possession, and are not being shipped for the purpose of market or sale, and that such shipment does not contain a greater number of fish or animals than may be lawfully shipped in one day. One copy of such affidavit shall be retained by the common carrier receiving such shipment, for the period of twelve months thereafter, and the other copy shall be attached in a secure manner to the package or container of such fish or animals.

109.25 Oaths—administration of. In addition to all officers authorized by law to administer oaths, the agent of any common carrier receiving for transportation any fish, animals or birds, as this chapter provided, is hereby authorized to administer the required oath.

109.26 Unlawful transportation. No person, except as otherwise provided, shall ship, carry or transport in any one day, game, fish, birds, or animals, except fur-bearing animals in excess of the number legally permitted to be in possession of such a person.

109.27 Shipping restrictions. It shall be

unlawful for any common carrier to receive for transportation any game, fish, animals, or birds in greater numbers or in any other way or manner than in this chapter provided.

109.28 Exceptions. The foregoing provisions regarding the possession and transportation of fish shall not apply to such fishing as is done under written permits from the state conservation director or to such fishing as is permitted with nets or seines done on private fishing preserves. Nothing in the foregoing sections 109.23 to 109.27, inclusive, shall pertain to rabbits.

109.29 Commercial shipments. It shall be unlawful for any person, firm or corporation to ship any fish taken with licensed nets or seines unless there is attached to each container a tag stating the name and address of the consignor and consignee, the amount of each kind contained therein, the waters from which taken and that same were taken with licensed nets or seines.

109.30 Entire shipment contraband. In the shipping of fish, game, animals, birds, or furs, whenever a container includes one or more fish, game, animals, birds or furs that are contraband, the entire contents of the container shall be deemed contraband, and shall be seized by the director or his officers.

109.31 Game brought into the state. It shall be lawful for any person, firm or corporation to have in possession any fish or game lawfully taken outside the state and lawfully brought into the state, but the burden of proof shall be upon the person in such possession to show that such fish or game was lawfully killed and lawfully brought into the state.

109.32 Violation. Whoever shall take, catch, kill, injure, destroy, have in possession, buy, sell, ship, or transport any frogs, fish, mussels, birds, their nests, eggs, or plumage, fowls, game or animals in violation of the

provisions of this chapter or of administrative orders of the state conservation commission or whoever shall use any device, equipment, seine, trap, net, tackle, firearm, drug, poison, explosive, or other substance or means, the use of which is prohibited by this chapter, or use the same at a time, place or in a manner or for a purpose prohibited, or do any other act in violation of such provisions for which no other punishment is provided, shall be fined not less than ten dollars nor more than one hundred dollars or be imprisoned in the county jail not more than thirty days.

Each fish, fowl, bird, bird's nest, egg, or plumage, and animal unlawfully caught, taken, killed, injured, destroyed, possessed, bought, sold, or shipped shall be a separate offense.

109.33 Violations relating to dams. Whoever shall erect any dam or other obstruction prohibited by this chapter or at a place or in a manner prohibited, or shall injure or destroy any dam lawfully erected, shall be fined not less than one hundred dollars, nor more than five hundred dollars, or be imprisoned in the county jail not more than one hundred days.

109.34 Violations by common carrier. Any common carrier which shall violate any of the provisions of this chapter relating to receiving, having in possession, shipping or delivering any fish, fowls, birds, bird's nests, eggs or plumage, game or animals, in violation of the provisions of this chapter or contrary to the regulations and restrictions therein provided, and any agent, employee, or servant of such corporation violating such provisions, shall be fined not less than one hundred dollars nor more than three hundred dollars, and any such agent, employee, or servant may be imprisoned not exceeding thirty days.

109.35 Attorney general and county attorneys. It shall be the duty of the attorney general, when requested by the director, to

give his opinion in writing upon any question of law arising under this chapter; and it shall be the duty of all county attorneys in this state when requested by the director or any conservation officer, to prosecute all criminal actions brought in their respective counties for violations of the provisions of this chapter. Nothing in this chapter shall be construed as prohibiting any person from instituting legal proceedings for the enforcement of any of the provisions thereof.

109.36 Information—venue. In all prosecutions under this chapter, any number of violations may be charged in one information, but each charge shall be set out in a separate count if more than one charge is included in one information.

Prosecutions for violations may be brought in the county in which any fish, fowl, bird, bird's nest, eggs, or plumage, or animals protected by this chapter were unlawfully caught, taken, killed, trapped, ensnared, bought, sold, or shipped unlawfully, or in any county into or through which they were received, transported, or found in possession of any person.

109.37 Presumptive evidence. It shall be presumptive evidence of a violation of the provisions of this chapter for any person to:

1. Fail to have a license upon his person at any time required by law, or then refuse to exhibit the same on request of any person desiring to examine it.

2. Have in his possession any fish, game, furs, birds, bird's nests, eggs or plumage, or animals, which have been unlawfully caught, taken, or killed.

3. Be in possession of such fish, game, furs, birds, or animals at a time when or place where it shall be unlawful to take, catch or kill, the same, except game, birds or animals, during the first ten days of the closed season.

4. Have in his possession any implements, devices, equipment or means whatever of taking fish, birds, or animals protected by this

chapter at any place where the possession or use thereof is prohibited.

PROPAGATION AND PROTECTION OF FISH, GAME, WILD BIRDS AND ANIMALS

109.38 Prohibited acts—deer, raccoon, and rough fish regulations. It shall be unlawful for any person to take, pursue, kill, trap, or ensnare, buy, sell, possess, transport, or attempt to so take, pursue, kill, trap, or ensnare, buy, sell, possess, or transport any game, protected nongame birds, fur-bearing animals or fur or skin of such animals, muskels, frogs, spawn or fish, or any part thereof, except upon the terms, conditions, limitations and restrictions set forth herein, and administrative orders necessary to carry out the purposes set out in section 109.39 or as provided by the Code.

1. The commission may upon its own motion and after an investigation, alter, limit, or restrict the methods or means employed and the instruments or equipment used in taking deer, raccoon or rough fish, if the investigation reveals that such action would be desirable or beneficial in promoting the interests of conservation, or the commission may, after an investigation when it is found there is imminent danger of loss of fish through natural causes, authorize the taking of fish by such means as they may deem advisable to salvage such imperiled fish populations.

2. If following an investigation the commission finds that the number of hunters licensed to take deer should be limited or further regulated they may, by their own motion, conduct a drawing or so regulate as to accomplish that purpose, except that owners or tenants of land shall be permitted to hunt deer on land owned or leased by them notwithstanding but subject to all other laws and regulations.

109.39 Biological balance maintained. The open seasons, closed seasons, bag limits, size limits, catch limits, possession limits and ter-

ritorial limitations set forth herein pertaining to fish, game and various species of wildlife are based upon a proper biological balance as hereinafter defined being maintained for each species or kind. The seasons, catch limits, bag limits, size limits, possession limits and territorial limitations set forth herein shall prevail and be in force and effect for each and every species of wildlife to which they pertain as long as the biological balance for each species or kind remain such as to assure the maintenance of an adequate supply of such species. The commission is hereby designated the sole agency to determine the facts as to whether such biological balance does or does not exist. If the commission, after an investigation finds that the number and/or sex of each or any species or kind of wildlife is at variance to aforesaid condition, the commission shall by administrative order extend, shorten, open or close seasons and/or change catch limits, bag limits, size limits and/or possession limits or areas in accordance with said findings. For the purpose of this section, biological balance is defined as that condition when all losses to population are compensated by natural reproductive activity or artificial replenishment, replacement or stocking.

DEFINITIONS

109.40 Fur-bearing animals. The following are hereby declared to be fur-bearing animals for the purpose of regulation and protection under this chapter: Beaver, badger, mink, otter, muskrat, raccoon, skunk, opossum, spotted skunk or civet cat, weasel, coyote, wolf, ground hog, red fox and gray fox. Nothing in this chapter shall apply to domesticated fur-bearing animals.

109.41 Game. For the purposes of this chapter the term "game" shall be construed to mean all of the wild animals and wild birds specified in this section except those designated as not protected, and shall include the heads, skins, and any part of the same, and

the nests and eggs of birds and their plumage.

1. The Anatidae: such as swans, geese, brant and ducks.

2. The Rallidae: such as rails, coots, mudhens and gallinules.

3. The Limicolae: such as shore birds, plovers, surf birds, snipe, woodcock, sandpipers, tattlers, gotwits and curlews.

4. The Gallinae: such as wild turkeys, grouse, pheasants, partridges and quail.

5. The Columbidae: mourning doves and wild rock doves only.

6. The Sciuridae: such as gray squirrels, fox squirrels and flying squirrels.

7. The Leporidae: cottontail rabbits and jack rabbits only.

8. The Cervidae: such as deer and elk.

109.42 Nongame birds protected. Protect- ed nongame birds shall include any wild bird other than game, either resident or migratory, including the plumage, skins, body, or any part thereof and their nests and eggs, except that the following are not protected by this chapter: European starling, English or house sparrow, blackbird, crow, sharpshinned hawk, Cooper's hawk and great horned owl.

109.43 Mussels. As used in this chapter, the word "mussels" shall mean and embrace the pearly, fresh water mussels or clams or naiad, and the shells thereof.

109.44 Fish. The term "fish" as used in this chapter shall mean any fish of the class Pisces.

109.45 Frogs. The term "frog" as used in this chapter shall mean any frog of the family Ranidae.

109.46 Spawn. The term "spawn" as used in this chapter shall mean any of the eggs of any fish, frog, or mussel.

109.47 Importing fish and game—permits. It shall be unlawful except as otherwise pro-

vided for any person, firm or corporation, to bring into the state of Iowa for the purpose of propagating or introducing, or to place or introduce into any of the inland or boundary waters of the state, any fish or spawn thereof that are not native to such waters, or introduce or stock any bird or animal that are not native to Iowa, unless application is first made in writing to the commission for a permit therefor and such permit granted. Such permit shall be granted only after the commission has made such investigation or inspection of the fish, birds or animals as it may deem necessary to determine whether or not such introduction will be beneficial or detrimental to the native wildlife and the people of the state, and may or may not approve such planting, releasing or introduction according to its findings. Nothing in the above shall prohibit licensed game breeders from securing native or exotic birds or animals from outside the state and bringing them into the state and they shall not be required to have a permit as provided above when such birds or animals are not released to the wild but are held on the game breeder's premises as breeding stock.

TERRITORIES, OPEN SEASONS, BAG AND POSSESSION LIMITS FOR GAME

109.48 Restrictions. It shall be unlawful for any person except as otherwise provided, to willfully disturb, pursue, shoot, kill, take or attempt to take or have in possession any game bird or animal at any time except during the open season period as set by the commission under authority of section one hundred nine point thirty-nine (109.39), not to exceed a limit below set out and embraced within the dates between September 1 and March 1, both inclusive, specified for each variety and each locality, respectively, or in said open season take in any one day in excess of the number designated for each variety or each locality respectively, or have in possession any variety of game bird or animal in

This table refers to section 109.48—restrictions.

Kind of Animal and Locality	Open Season	Bag Limit	Possession Limit
SQUIRRELS—Gray, Fox, Entire State	September 1 to March 1	6	12
RABBITS—Cottontail and Jack, Entire State	September 1 to March 1	10	
QUAIL—Bobwhite, Entire State	September 1 to March 1	8	8
PHEASANTS—Chinese, Mongolian, Ring-neck, Entire State	September 1 to March 1	3 male birds	6 male birds
DUCKS—Entire State	September 1 to March 1	10	10
GESE, BRANT—Entire State	September 1 to March 1	4	4
HUNGARIAN PARTRIDGES—Entire State	September 1 to March 1	2	2
COOT, MUDHEN, GREBE, Entire State	September 1 to March 1	15	15
WILSON OR JACKSNIFE—Entire State	September 1 to March 1	15	15
EUROPEAN STARLINGS—Entire State	Continuous	none	none

In case of deer, the open season shall be September one (1) to March one (1) for the entire state, and there shall be a limit of one (1) deer per season for any person.
The information contained in this table is superceded by current regulations. See Section 109.39.

excess of the number allowed in possession as indicated in the following table: (See page 62.

109.49 Special permit to kill. The owner or operator of any fish hatchery may kill or take any pied-billed grebe, gull or tern, American bittern, black-crowned night heron, merganser, great blue heron, also known as blue crane, poorjoe or cranky, or kingfisher, within the bounds of such hatchery after having been issued a permit by the commission. Each such permittee shall file with the commission an itemized report showing the species and number of birds killed during the period covered by the permit. Report shall be filed on or before January 1 each year. Failure to file such report shall be grounds for refusal to issue subsequent permits.

109.50 Selling birds. No part of the plumage, skin or body of any bird protected by this chapter shall be sold or had in possession for sale, irrespective of whether said bird was captured or killed within or without the state, except as otherwise provided.

109.51. Hunting license not trapping license. A hunting license shall not permit the holder to trap any fur-bearing animal as defined in this chapter.

109.52 Exhibiting catch to officer. Any person who shall have in his possession any game bird or game animal, fish or fur or part thereof shall upon request of the director or any conservation officer or any peace officer exhibit the same to him, and a refusal to do so shall constitute a violation of this chapter.

109.53 Chasing from dens. It shall be unlawful to have in possession while hunting or to use while hunting any ferret or mechanical device or any substance to be used for chasing animals from their dens.

109.54 Shooting rifle over water or highway. No person shall at any time shoot any

rifle on or over any of the public waters or public highways of the state or any railroad right of way.

109.55 Selling game. Except as otherwise provided, it shall be unlawful for any person to buy or sell, dead or alive, any bird or animal or any part thereof which is protected by this chapter but nothing in this section shall apply to fur-bearing animals or rabbits.

109.56 Training dogs. It shall be unlawful to train any bird dog on game in the wild from March 15 to July 15 each year. A pistol or revolver shooting blank cartridges may be used while training bird dogs during closed season.

109.57 Possession and storage. Any person having lawful possession of game may hold same for not to exceed ten days after the close of the open season for such game. A permit to hold such game for a longer period may be granted by the commission.

109.58 Trapping birds or poisoning animals. No person except those acting under the authority of the state conservation director shall capture or take or attempt to capture or take, with any trap, snare or net, any game bird, nor shall any person use any poison or any medicated or poisoned food or any other substance for the killing, capturing or taking of any game bird or animal.

109.59 Pigeons — interference prohibited. It shall be unlawful for any person or persons, except the owner or his representatives, to shoot, kill, maim, injure, steal, capture, detain or to interfere with any homing pigeon, commonly called "carrier pigeon", which shall at the time have the name, initials, or other identification of its owner, stamped, marked or attached thereon; or to remove any mark, band or other means of identification from such pigeon which has the name, initials or emblem of the owner stamped or marked upon it.

Whoever shall violate the provisions of this section shall be punished as provided in section 109.32.

GAME BREEDERS

109.60 Raising game. It shall be unlawful for any person to raise or sell game of the kinds protected by this chapter without first procuring a game breeder's license as provided by law.

109.61 License to possess. A licensed game breeder may hold in possession at any time any game bird, game animal or fur-bearing animal raised by him or obtained from without the state or from a licensed game breeder within the state. Such licensee may buy, sell, or otherwise dispose of such game birds, game animals, fur-bearing animals, or any part thereof. Possession and use of such game birds, game animals or fur-bearing animals obtained from a licensed game breeder shall be deemed lawful provided that no game birds so obtained may be sold for food, except under the following conditions: Upon filing with the state conservation commission a facsimile of a stamp of similar type to that used by the United States department of agriculture in grading meat, licensed game breeders may sell dressed pheasants to markets for resale providing each pheasant has affixed in a conspicuous and legible manner the imprint of each stamp. Such stamps shall bear the name and license number of the game breeder in letters of at least twelve point type size.

Markets selling such stamped pheasants shall maintain the stamp on each and every pheasant until finally sold or disposed of. All markets selling such stamped pheasants shall keep a record showing the total number of pheasants sold together with the name and address of the game breeder from whom purchased and the number of pheasants in each such purchase. Markets retailing such stamped pheasants, together with their records, shall be subject to inspection by any authoriz-

ed representative of the state conservation commission at any reasonable hour.

Violation of the provisions of this section shall constitute a misdemeanor and punishment shall be as provided for in section one hundred nine point thirty-two (109.32).

109.62 Records—report. Any holder of a game breeder's license shall keep a record of all purchases and all sales of stock showing the kinds and numbers of each, dates of transactions, and from whom purchased, and to whom sold. Such record shall be opened for inspection by the commission at any time. Each licensee shall on or before May 1 of each year file a report with the commission setting out the information mentioned above on forms supplied by the commission.

BAIT DEALERS

109.63 Sale of bait — license. Any person may be authorized to sell minnows, frogs, and clams for fish bait upon the payment of a license fee of five dollars to the commission. Minnow and bait boxes and tanks shall be open to inspection by the director and conservation officers at all times. They shall have tanks and bait boxes of sufficient size, with proper aeration to keep the bait alive and prevent heavy loss.

Such license shall authorize the licensee to take from the lakes and streams in the state sufficient minnows, frogs, and clams to carry on and supply his customers with bait for hook and line fishing.

Such licensees shall comply with all state laws pertaining to possession, taking, selling of bait handled by them and any licensee upon conviction for violating any state conservation laws, shall forfeit his license if demanded by the director.

Holders of a bait dealer's license, when obtaining bait from lakes and streams, shall take only such sized bait as can be used and shall return all small minnows and frogs to the water immediately with as little loss as possible.

PRIVATE FISH HATCHERY

109.64 License — regulations. It shall be unlawful for any person to operate a private fish hatchery or engage in the business of propagating fish native to the state of Iowa in private waters until such person has applied for and has been issued a private fish hatchery license as provided by state law. Such license shall be renewed each year.

The term "private fish hatchery" covering private fish hatcheries shall include all private ponds, with or without buildings used for the purpose of propagating or holding fish for commercial purposes.

No license shall be issued to operate fish hatcheries on privately owned or non-meandered lakes and streams or ponds that may become stocked with fish from public waters by overflow or natural migration.

Holders of private fish hatchery licenses may, in said hatchery, possess, propagate, buy, sell, deal in and transport the fish produced from breeding stock lawfully acquired, but all fish sold for food purposes must comply with the state law regarding size limits.

They may sell fish for stocking purposes within or without the state, but no fish shall be sold for stocking purposes within the state that are not native to the state and to the waters where stocked.

Each operator of a private fish hatchery shall make an annual report of the number, kinds and sizes of the fish propagated and to whom sold during the license year on forms supplied by the commission. Failure to make such report shall be grounds for refusal to renew the license under which the hatchery operates.

Operators of private fish hatcheries shall secure their breeding stock from licensed private fish hatcheries in the state or from lawful sources outside the state and it shall be unlawful for such hatcheries to secure stock in any other way.

Private fish hatchery operators who hold and feed carp, buffalo and other fish lawfully

taken by commercial fishermen, may hold, feed, and sell such fish under private fish hatchery licenses.

SCIENTIFIC COLLECTING

109.65 License. The commissioner may after investigation, issue to any person a scientific collector's license under which license such person may be permitted to collect for scientific purposes only, any birds, nests, eggs, or wild animals or fish. No person to whom such license is issued shall dispose of any such collection or part thereof except upon written permission of the commission. The application for such license shall be made upon blanks to be furnished by the commission. Each holder of such license shall, within thirty days after the expiration of such, file with the commission a report showing all specimens by him collected. Such license may be revoked at any time for cause.

109.66 Banding or marking. It shall be unlawful for any person to capture birds or animals for banding purposes except that the commission may, after investigation, issue a permit to any person permitting him to capture birds or animals for the purpose of banding or marking the same for scientific study, but no such birds or animals may be killed or injured or retained in possession, but must be liberated safely and promptly. Such permit may be revoked at any time for cause. Each holder of such permit shall report to the commission once each month the number, kind of birds or animals banded, and the band numbers.

ANGLING LAWS

109.67 Seasons and limits. Except as expressly provided in this chapter a closed season is established for each variety of fish listed in the following tables; provided, however, that within the meandering lines of the waters of the Mississippi and Missouri rivers, and within the inland waters in Lee county, Iowa,

continuous pole and line fishing, only, shall be permitted for all fish, except that there shall be a closed season on walleyed pike during March and April and a closed season on large and small mouth bass during March, April, and May. Restrictions as to the daily catch limit, possession limit, minimum length and weight shall remain as provided in this section. The table designated "A" shall be applicable to all waters of the state except the Mississippi river and the Missouri river. The table designated "B" shall be applicable to the Mississippi river and Missouri river only. Such closed seasons shall extend during all the time in each year except the period embraced within the dates, both inclusive, set opposite the names of each variety in the column headed "open season"; and except as expressly provided in this chapter no person shall take, capture, or kill fish of any such variety at any time other than the open season therefor, nor in the open season in excess of the daily catch limit in one day, nor have in possession in excess of the possession limit at any time, nor under the minimum length or weight for each fish designated opposite each variety in the columns headed respectively "daily catch limit", "possession limit" and "minimum length or weight." Measurement of length shall be taken in a straight line from the tip of the snout to the utmost end of the tail fin.

It shall be unlawful for any person at any time to have in possession more than thirty fish of all kinds in the aggregate, except that this aggregate possession limit shall not apply to the fish named in this section on which there is no daily catch limit, or to the director and his duly authorized representatives when carrying out duties imposed by state law, or commercial fishermen, or wholesale fish markets, when operating under proper license and dealing in commercial fish.

109.68 Repealed by 58 G.A.

109.69 Repealed by 58 G.A.

The following tables refer to section 109.67—seasons and limits.

TABLE A

Kind of Fish	Open Season	Daily Catch Limit	Possession Limit	Minimum Length or Weight
Trout—brown, rainbow, brook	5 a.m. May 1 to 9 p.m. September 30. Trout shall be fished for only from one hour before sunrise to 9 p.m. each day	8	16	7 inches
Northern pike	May 15 to November 30	8	16	15 inches
Large-mouth bass	June 15 to November 30	5	10	10 inches
Small-mouth bass	June 15 to November 30	5	10	10 inches
Sand pike, sauger pike, wall-eyed pike	May 15 to November 30	8	16	12 inches
Bullheads	Continuous	25	50	None
Sheepshead	Continuous	No catch or possession limits		None
Rock sturgeon, sand sturgeon, paddlefish	August 1 to November 30	15	30	Rock sturgeon and paddlefish—not less than five pounds

TABLE A—Continued

				Sand sturgeon—not less than one pound
Yellow perch, yellow bass, striped bass, silver bass	May 15 to November 30	15	30	7 inches
Crappies, calico bass	June 15 to November 30	15	30	7 inches
Warmouth bass, rock bass, sunfish, bluegills	June 15 to November 30	15	30	5 inches
Catfish	April 15 to November 30	15	30	12 inches
Suckers, redborse dogfish	Continuous	15	30	None
Carp, buffalo, quillback, gar,	Continuous	None	None	None
Minnows	May 12 to November 30	None	None	None
Frogs	May 12 to November 30	Four dozen (Bait dealers excepted)	Eight dozen (Bait dealers excepted)	(Applies to bait dealers only)

The total catch limit of all fish under this division, excluding those having a continuous open season on which there is no daily catch limit, shall not exceed twenty-five per day.

The information contained in this table is superseded by current regulations. See Section 109.39.

TABLE B

Kind of Fish	Open Season	Daily Catch Limit	Possession Limit	Minimum Length or Weight
Rock sturgeon, sand sturgeon, paddlefish	August 1 to November 30	None	None	Rock sturgeon not less than five pounds Sand sturgeon not less than one pound Paddlefish not less than five pounds
Northern pike	Continuous	15	30	15 inches
Catfish	Continuous	15	30	12 inches
Sheepshead	Continuous	None	None	None
Bullheads, carp, buffalo, gar, quillback, dogfish, suckers, redhorse	Continuous	None	None	None
Large-mouth bass, small-mouth bass	June 1 to March 1 next	5	10	10 inches
Crappie, perch, yellow bass, silver bass	Continuous	15	30	7 inches
Sunfish, bluegill, rock bass, warmouth bass	Continuous	15	30	5 inches
Walleyed pike	May 1 to March 1 next	8	16	12 inches
Minnows	Continuous	None	None	None

The information contained in this table is superceded by current regulations. See Section 109.39.

109.70 Bait inspected. It shall be unlawful for any person to use for bait in any state-owned artificial lake minnows or small fish which have not been inspected and approved by a representative of the commission.

109.71 Releasing unlawful catch. Any fish caught that is less than the lawful minimum length or weight shall be handled with wet hands and released under water immediately with as little injury as possible.

109.72 Hooks. No person shall at any time take from the waters of the state any fish except as otherwise provided in this chapter, except with hook, line and bait, nor shall any person use more than two lines with one hook on each line in still fishing or trolling, and in fly fishing not more than one fly may be used on one line, and in trolling and bait casting not more than one trolling spoon or artificial bait may be used on one line. No person shall leave such fish line or lines and hooks in the water unattended or take or attempt to take any fish by snagging or to purposely hook them in any other part than in the mouth. One hook shall mean a single, double or treble pointed hook, and all hooks attached as a part of an artificial bait or lure shall be counted as one hook.

109.73 Trot lines. It shall be unlawful for any person to use in the inland waters of the state open to the use of trot or throw lines, more than five throw lines or trot lines and such lines shall not have in the aggregate more than fifteen hooks, but no person shall leave such line set, and he shall be in constant attention of such line, and no person shall use such throw line or trot line in any stocked lake or within three hundred feet of any dam or spillway or in any stream or portion of stream, closed or posted against the use of such tackle. One end of such throwline or trot line shall be set from the shore and be visible above the shore water line, but no such throw line or trot line shall be set entirely across a stream or body of water.

109.74 Where permitted. It shall be unlawful to use trot or throw lines in the rivers and streams of the state, except in the Mississippi River, Missouri River, Big Sioux River, and all rivers and streams south of United States highway 30 as it is now located.

109.75 Number permitted. It shall be unlawful for any one person to use in the Mississippi River, Missouri River or Big Sioux River, more than one throw or trot line having more than twenty-five hooks.

109.76 Unlawful means — exception. It shall be unlawful, except as otherwise provided to use on or in the waters of the state any grabhook, snaghook, artificial light, any kind of a net, seine, trap, firearm, dynamite, or other explosives, or poisonous or stupefying substances, lime, ashes or electricity in the taking or attempting to take any fish, except that gaffhooks or landing nets may be used to assist in landing fish. No person shall take or kill, or attempt to take or kill any fish by hand fishing.

The spearing of carp, buffalo, quillback, gar and dogfish by persons lawfully permitted to fish shall be lawful between the hours of sunrise and sunset each day and at such times and at such places as the commission may determine necessary to carry out the purposes of subsection one of section 109.38 of the Code, except that it shall be unlawful to spear from within an enclosure of the type that materially hides the fisherman from view.

109.77 Repealed by 54 GA, ch 68 §1.

109.78 Stocking private water. No private water may be stocked by the commission unless the owner agrees that such waters shall be open to the public for fishing, except that the commission may, after investigation to determine their suitability as to size, depth, living conditions for fish, and management, provide a breeding stock of fish for privately owned farm ponds on request of the owner.

109.79 Selling black bass. It shall be unlawful for any person to buy, sell, barter or to offer for sale any black bass or part thereof whether taken within or without the state.

109.80 Minnows—nets—violations. For the purpose of taking minnows only, it shall be lawful for any person to use a minnow dip net not to exceed four feet in diameter or a minnow seine not to exceed fifteen feet in length and having a mesh not smaller than one-fourth inch bar measure or larger than one-half inch bar measure and on issuance of permit by the commission, licensed bait dealers may use minnow seines not exceeding fifty feet in length.

“Minnows” shall be defined as chubs, shiners, suckers, dace, stonerollers, mud-minnows, redhorse, blunt-nose, fat-head, or other small fish commonly used for fish bait that have only one dorsal fin.

“Commercial purposes” shall be construed to mean selling, giving, or furnishing to others.

It shall be unlawful for any person:

1. To take or attempt to take minnows for commercial purposes from any of the waters of the state, or transport the same without first procuring a bait dealer's license therefor as provided by state law; provided, however, that no license other than a license to fish in the waters of this state shall be required of persons taking minnows for their individual use for bait.

2. To seine, take, attempt to take, transport or carry away any minnows from the waters of any stream inhabited or stocked with trout, except that chubs, suckers and redhorse may be taken from trout streams with pole and line during trout season, and chubs may be taken with pole and line only, at any time from streams not stocked with trout.

3. To transport in any manner or for any purpose outside this state any minnows, dead or alive, taken in the state except that the director may transport for the purposes set out by state law.

4. To use minnows except for bait in hook and line fishing.

The commission shall have the power to designate the lakes and streams and parts of same from which minnows shall not be taken when investigation shows that the minnow population should be protected for the best management of the lake or stream and if such investigation shows that lakes or streams or any portion of them should be closed to taking minnows for such length of time as deemed advisable by the commission. Then in that case the director is hereby authorized to post such lakes and streams or portions of them with notices or signs which clearly state that the lake or stream or portion so posted is closed to the taking of minnows and it shall be unlawful for any person to take in any manner, minnows from such posted stream.

Minnow traps not exceeding twenty-four inches in length may be used wherever the taking of minnows is allowed.

109.81 Selling minnows outside state. Except as otherwise provided no person shall carry, transport or ship or cause to be carried, transported or shipped any minnows for the purpose of sale beyond the boundaries of the state.

109.82 Prohibited bait. It shall be unlawful to transport or to use or to sell or offer for bait or to place into any inland water of the state or into any waters from which waters of carp, quillback, gar, or dogfish, and any minnows or fish of any of these species taken shall not be returned to any such waters, but shall be destroyed.

109.83 Frog season. It shall be unlawful for any person to take, capture or have in possession frogs from December 1 to May 11 in any year.

109.84 Frogs — catching — selling. It shall be unlawful to take, attempt to take, or kill in any manner whatsoever, or to sell, or have in possession, or to transport in any manner,

any species of frogs in the state except as follows.

Frogs may be taken from May 12 to the following November 30.

Frogs may be taken by holders of a fishing license only and they may be used for bait or food purposes, but no person shall take more than four dozen frogs in any one day or have in possession at any time more than eight dozen frogs. Licensed bait dealers authorized by law to sell bait may have in their possession to supply the bait needs of their customers, not more than twenty dozen frogs.

No person shall use any device, net, barrier or fence of any kind which prevents frogs from having free access to and egress from the water.

Transportation out of the state in any manner or for any purposes, of frogs taken in Iowa, is prohibited.

Nothing in this chapter shall be construed to prevent the purchase, sale or possession of frogs or any portion of the carcasses of frogs that have been legally taken and shipped in from without the state.

Nothing herein shall prevent any person from catching frogs on his own premises for his private use.

It shall be unlawful for any nonresident or alien to take turtles or crayfish in Iowa, by any means or method, except from the Missouri and Mississippi rivers and the Big Sioux River.

109.85 Prohibited areas. It shall be unlawful for any person at any time, except as otherwise provided, to take any fish, minnows, frogs, or other aquatic, biological life from any state fish hatchery, nursery or other area under the jurisdiction of the commission operated for fish production purposes.

109.86 Federal employees excepted. The United States commissioner of fisheries, and his duly authorized agents, are hereby authorized to conduct fish culture operations, rescue work on the boundary waters of the state, and

other operations necessary for rescue and hatchery work.

TRAPPING OF FUR-BEARING ANIMALS

109.87 Open seasons. Except as otherwise provided, no person shall take, capture, kill or have in possession any fur-bearing animal or any part thereof of any of the following varieties at any time except during the open season as set by the commission under authority of section 109.39 and embraced within the dates between September 1 and March 1 both dates inclusive, specified for each variety and each locality, respectively, except where such killing, trapping, or ensnaring may be for the protection of public or private property. Provided, it shall be lawful for any person to have in his possession, sell, transport, or otherwise dispose of during such open season as herein provided, and for ten days thereafter, the carcass of, hide or skin of any animal named in this section.

1. Badger	Sept. 1 to March 1
2. Mink	Sept. 1 to March 1
3. Raccoon	Sept. 1 to March 1
4. Skunk	Sept. 1 to March 1
5. Opossum	Sept. 1 to March 1
6. Civit cat	Sept. 1 to March 1
7. Muskrat	Sept. 1 to March 1
8. Beaver	Sept. 1 to March 1
Such open season on beaver, badger, mink, raccoon, skunk, opossum, civit cat, and muskrat to begin at noon on the first day thereof.	
9. Red fox or gray fox	Cont. open season
10. Weasel	Cont. open season
11. Ground hog	Cont. open season
12. Wolf, coyote	Cont. open season
13. Otter	Cont. closed season

Taking or attempting to take beaver on private lands or waters without permission of the owner or tenant shall constitute a misdemeanor punishable as provided in section one hundred nine point thirty-two (109.32).

109.88 Selling furs outside state. It shall be unlawful for any person except a licensed

fur dealer to ship, transport, or sell any skin or hide of any fur-bearing animal defined in this chapter to dealers or buyers outside of this state unless he first obtains from the commission a special permit tag authorizing such shipment.

109.89 Permit to hold hides. Upon application, which shall be filed with the commission within ten days after the close of the open season, any person may be permitted to hold hides or skins of fur-bearing animals lawfully taken for a longer time than specified above. Such application shall be verified and shall show the number and varieties of the skins or hides to be held by the applicant. The commission shall thereupon issue a permit to such applicant to hold such skins or hides, which permit shall authorize the holder to sell or otherwise dispose of such skins or hides.

109.90 Disturbing dens. It shall be unlawful for any person to molest or disturb, in any manner, any muskrat house, beaver dam, skunk, mink, or raccoon den, except by permission of a conservation officer.

Provided, however, that nothing in this section shall prohibit the owner thereof to destroy any such den to protect his own property.

109.91 Shooting or spearing. No person shall kill with shotgun or spear any beaver, mink, otter, or muskrat, or have in possession any of said animals or the carcasses, skins or parts thereof that have been killed with shotgun or spear.

109.92 Box traps—disturbing dens—tags for traps. Except as otherwise provided in this chapter, no person shall at any time, use or attempt to use any colony or box trap including figure four box traps, in taking, capturing, trapping or killing any game bird or animal or fur-bearing animals.

It shall be unlawful for any person, except as otherwise provided, to use any chemicals, explosives, smoking devices, mechanical fer-

rets, wire, tool, instrument, or water to remove fur-bearing animals from their dens.

A license tag for each trap for which a license fee has been paid, stamped with the year of issuance, shall be furnished by the commission without additional charge. All licensed traps, when in use, shall have said tag attached to trap or chain and conservation officers shall have authority to confiscate any trap when found in use without such tag attached. Tags shall be renewed annually.

109.93 Hunting by artificial light. It shall be unlawful to throw or cast the rays of a spotlight, headlight or other artificial light on any highway, or in any field, woodland or forest for the purpose of spotting, locating or taking or attempting to take or hunt any animal, except raccoons or other fur bearing animals when treed with the aid of dogs, while having in possession or control, either singly or as one of a group of persons, any firearm, bow or other implement whereby game could be killed.

Any person violating this section shall be punished by a fine of not more than three hundred dollars or imprisonment in the county jail for a period not to exceed thirty days.

FUR DEALERS

109.94 Definition. The term "fur dealer" as used in this chapter shall mean any person, firm, partnership, or corporation engaged in the business of buying, bartering, trading or otherwise obtaining raw hides or skins of fur-bearing animals.

109.95 License. A license shall be required of each such fur dealer. The commission shall, upon application and the payment of the required license fee, furnish proper certificates to dealers.

109.96 Possession by dealer. A licensed fur dealer may have in his possession at any time skins or hides of animals which have been lawfully taken.

109.97 Report. Fur dealers shall, within fifteen days after the close of the open season in which fur-bearing animals may be lawfully taken, prepare and file with the commission a verified inventory. Such inventory shall show the number and kind of hides and skins which have been purchased.

109.98 Reporting violations. It shall be the duty of each fur dealer to report to the commission, the name of any person if known to such dealer, who attempts to sell any skins or hides which appear to have been unlawfully possessed by said person.

MUSSELS

109.99 License. It shall be unlawful for any person to take, catch or kill mussels for commercial purposes without first having procured a mussel license as provided by law.

109.100 Where and when taken. The state waters of Iowa shall be open to the taking of mussels under the conditions set forth in this chapter, and it shall be unlawful for any person, firm or corporation to take, catch, kill or have in possession mussels, except at such times and under such terms, conditions and limitations as set forth herein.

The territorial limitations shall be as established by the state conservation commission under authority of section one hundred nine point thirty-nine (109.39) and except as provided for in said section the season shall be June fifteenth to November thirtieth of each year.

Except where the conservation commission shall act in emergency, notice of the change in territorial limitations shall be published at least six months before the open season of each year.

109.101 Exceptions — use. Manufacturers of pearl buttons or of fish bait may at any time possess mussels which have been lawfully taken. Nothing in this or proceeding sections shall be construed to prohibit a licensed

fisherman from taking mussels to be used by him for food or bait.

109.102 Definitions. For the purposes of this chapter the term "crowfoot bar" shall mean a bar of any material bearing a series of hooks designed to catch or adapted for catching mussels by the insertion of such hooks between the shells of the mussels; "commercial purposes" shall mean and be presumed to be the taking, catching, killing, or having in possession mussels for the purpose of the sale of the shell or viscera, unless the contrary is proven; "rig" shall mean one boat equipped with not more than four crowfoot bars, one boat equipped with power, and one barge.

109.103 Manner of taking. It shall be unlawful for any person to operate more than one boat for each license, or one rig in taking, catching or killing mussels for commercial purposes. One additional boat for the purpose of towing, may be used, but only when no apparatus for taking, catching, or killing mussels is used or kept thereon.

It shall be unlawful for any person to have in possession in the water while engaged in taking, catching or killing mussels for commercial purposes, more than four crowfoot bars, or for more than two such bars to be in the water at the same time, or for any crowfoot bar to be of greater length than twenty feet.

It shall be lawful for any person to take mussels by hand, but the use of a fork or any similar instrument with tines in excess of six inches in length is prohibited.

109.104 Undersized mussels. It shall be unlawful for any person to take, or kill, offer for sale or have in possession for commercial purposes, any mussel of a size less than three inches in the greatest dimension for those species commonly known as "sandshells", "muckets", "creepers", "grandma", "pocket-books", "buckethorns", "washboards", "lady-

fingers", "squaw foot", and "cucumbers" and one and one-half inches in the greatest dimension for all other species, except that prosecution under this section shall not be initiated when errors in size exist in less than five percent by number, or three percent by weight, whichever is greater of the mussels taken or possessed. Undersized mussels shall be immediately culled and returned to the water from where taken, without avoidable injury, except that the so-called "pig-toes" may be retained.

109.105 Report. On or before April 1, each year, the holder of a mussel license shall make a written report to the commission on blanks furnished by the commission stating the total weight of mussels taken, caught or killed under such license, the names and location of waters from which the mussels were taken and the amount received for the shells or viscera sold or processed and sold. Failure to make such report shall authorize the commission to refuse the issuance of another license until the report is filed.

COMMERCIAL FISHING

109.106 Nets or seines. It shall be unlawful except as otherwise provided for any person to use any trotline, wooden basket trap, net or any seine in taking fish other than in the lawful taking of minnows.

109.107 Seining—Closed waters. It shall be lawful to use seines, dip nets, trammel nets, gill nets, basket traps, hoop nets, wing nets, pound, fyke and trap nets and trotlines in the Missouri River or Mississippi River, except as hereinafter provided in this section but only when such nets, seines, traps or trotlines have been properly licensed, and properly tagged, in accordance with the provisions of chapter 110, and of this section, and only when such nets, seines, traps or trotlines comply with the provisions of law and at such times and in such manner and for the taking

of such species of fish as are permitted by law.

It shall be unlawful for any person to place any net or seine, trap or trotline, of any kind within one hundred yards of the mouth of any tributary stream emptying into the Mississippi River or Missouri River, or within three hundred yards from this Mississippi projection of any dam in the Mississippi River and Missouri River.

All licensed nets, seines, wooden basket traps or trotlines shall have attached a metal tag identifying the equipment and license for its use. Tags must at all times be attached to commercial fishing gear and conservation officers shall have authority to confiscate any such commercial fishing gear when found in use without such tags attached. Identification tags shall be furnished by the commission and a charge of ten (10) cents shall be made for each tag and such tags shall be renewed annually.

It shall be unlawful for fish peddlers, wholesale fish markets, jobbing houses or other places for the wholesale or retail marketing of fish to have in possession catfish under the legal thirteen inch commercial size limit provided in Iowa laws.

109.108 Size of mesh. It shall be unlawful for any person to fish with or to use any trammel net having a mesh of less than two inches square or bar measure, or to fish with or use a gill net having a mesh of less than three and three-quarters inches square or bar measure, or to use in the Mississippi or Missouri rivers, basket traps made of wood, with the end opposite the throat having a hole of less than one and one-half inches in diameter. Such measurements shall apply to meshes when in use and no allowance shall be made for shrinkage due to any cause. Any commercial fishing equipment in use shall be subject to inspection by the commission or its authorized agents at any time.

109.109 Nets permitted in boundary rivers

—license. It shall be lawful to fish with and use wing nets, trap nets, hoop nets, dip nets, wooden basket traps, gill nets, seines and trammel nets in the Mississippi River and Missouri River at any time. Provided a trotline license is procured, the holder of said license may use a trotline, with no more than one hundred hooks, in the waters of the Mississippi and Missouri rivers. A tag as provided in section 109.107, Code 1958, shall be attached thereto.

109.110 Traps and trotlines on border rivers. It shall be lawful to operate in the Mississippi and Missouri rivers, one basket trap and one trotline provided the operator has purchased a regular fishing license that is required in section one hundred ten point one (110.1), Code 1958, and pays the regular fee of one dollar for each basket trap or trotline. Each trap and trotline must have attached thereto an identification tag as required in section one hundred nine point one hundred seven (109.107), Code 1958.

109.111 Permissive catch. It shall be lawful to take from the waters of the Mississippi River and Missouri River with license commercial fishing gear the following species of fish: carp, buffalo, gar, suckers, quillback, sheepshead, pickerel, bullheads, dogfish, sand sturgeon, catfish or paddlefish, subject to minimum weight or length requirements provided by law.

109.112 Restrictions on nonresidents. No licenses or tags for commercial fishing gear, or no commercial fishing gear operator's certificates, or no bait dealers' licenses may be issued to residents of states who do not sell similar licenses, tags, or certificates to residents of Iowa.

109.113 Size limits. It shall be lawful for any person to take or catch, with commercial fishing gear, any catfish not less than thirteen inches long, any buffalo not less than fifteen inches long, any bullhead not less than nine

inches long, any sheephead not less than ten inches long, any sucker or redhorse not less than twelve inches long.

109.114 Gar destroyed. It shall be unlawful for any person to place any gar pike in any waters of the state and such fish when taken shall be destroyed.

109.115 Sale of fish. It shall be lawful for the holder of a net or seine license to possess and sell such species and sizes of fish as are lawfully taken and such fish may be delivered to original buyers and or may be sold by such licensee at a place on the bank to which they are brought from the nets or seines, but any such sales shall be made by the licensee or his agent. Any other sale of fish taken under this section shall require a wholesale fish market or fish peddler's license.

109.116 Report of licensee. Each holder of a net or seine license shall make a report to the commission annually showing the amounts, kinds and value of fish caught during the period of the license, where fish were caught and kind of tackle used. Failure or refusal to make said report shall be cause for the commission to refuse issuance of a license or renewal until such report is made.

109.117 Wholesale license. It shall be unlawful for any person, firm or corporation to peddle fish or to operate a wholesale fish market, jobbing house, or other place for the wholesale marketing of fish, or distribution of fish, without first procuring a license. The commission shall upon application and the payment of the required fee furnish a license to wholesale fish markets or fish peddlers. The commission may upon application and the payment of the required fee issue a certificate to each person who as a representative of a wholesale fish market is engaged in peddling fish.

109.118 Records and report. Each holder of a wholesale fish-market or fish-peddler's li-

cense shall keep an accurate record of the species and quantities of all fish taken from Iowa waters acquired or handled by such licensee during the license year. Such records shall be open at all reasonable times to inspection by the commission. Such licensee shall within thirty days after the expiration of the license make a report upon blanks furnished by the commission of all fish acquired or handled by such licensee. Failure to make such a report shall be cause to refuse to issue a new license.

109.119 Penalties. Whoever shall violate any of the provisions of the foregoing sections numbered 109.38 to 109.118, inclusive, shall be punished as provided in section 109.32.

59th G. A. ch. 93, Sec. 1.

109.120 Hunting from aircraft prohibited. It shall be unlawful for any person to intentionally kill, wound or attempt to kill or wound any animal, fowl or fish from or with an aircraft in flight. Any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by a jail term not to exceed thirty days in the county jail.

109.121 Turtles and crayfish—taking by non-residents or aliens. It shall be unlawful for any nonresident or alien to take turtles or crayfish in Iowa, by any means or method, except from the Missouri and Mississippi rivers and the Big Sioux River.

CHAPTER 110

FISH AND GAME LICENSES AND CONTRABAND ARTICLES AND GUNS

110.1 Licenses.

110.2 Blanks

110.3 Issuance of license.

- 110.4 Depositories—bond.
- 110.5 Fees.
- 110.6 Lost or destroyed blanks.
- 110.7 Duplicate licenses and permits.
- 110.8 Accounting.
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- 110.11 Form of license.
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- 110.18 Public nuisance.
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GUNS

- 110.22 "Gun" defined.
- 110.23 Manner of conveyance.
- 110.24 Prohibited guns.

PENAL PROVISION

- 110.25 Penalties.

110.1 Licenses. Except as otherwise provided in this chapter, no person shall fish, trap, hunt, pursue, catch, kill or take in any manner, or use or have possession of, or sell or transport all or any portion of any wild animal, bird, game or fish, the protection and regulation of which is desirable for the conservation of the resources of the state, without first procuring a license or certificate so to do and the payment of a fee as follows:

Fishing licenses:

All persons legal residents of the state, except otherwise provided\$ 2.50

No person, resident or nonresident, required to have a fishing license, shall fish for trout in waters designated by the conservation commission as trout waters without having a special

license stamp affixed to his fishing license.

Special trout fishing license stamp 2.00

The proceeds from the sale of this stamp shall be used exclusively to restock the trout waters designated by the conservation commission.

Hunting licenses:

All persons legal residents of the state except otherwise provided 2.50

Hunting and fishing combined licenses:

All persons legal residents of the state, except otherwise provided 4.50

Hunting license: (nonresident)

Upon submitting suitable evidence of legal residence in any other state, nonresidents of Iowa shall be charged the same fee for a hunting license as that charged to residents of Iowa by the state in which applicant resides, provided, however, that in no case shall said fee be less than \$5.00, and provided further that if the state of applicant's residence does not provide for a nonresident hunting license, the fee shall be the minimum provided for herein.

Special deer hunting license:

All persons legal residents of the state 10.00

Fishing license: (nonresident)

Six-day license for nonresident or alien 3.00

Fishing license for longer than six days: (nonresident)

Upon submitting suitable evidence of legal residence in any other state, nonresidents of Iowa shall be charged the same fee for a fishing license as that charged to residents of Iowa by the state in which the applicant resides, provided, however, that in no case shall said fee be less than \$3.00, and provided further that if the state of

applicant's residence does not provide for a nonresident fishing license, the fee shall be the minimum provided for herein.

Game breeders license 2.00

Trapping license for legal resident of state using not more than fifteen traps 1.00

Trapping license for legal resident of state using more than fifteen traps, per trap including tag15

Trapping license for nonresident or alien:

Upon submitting suitable evidence of legal residence in any other state, nonresidents of Iowa shall be charged the same fee for a trapping license as that charged to residents of Iowa by the state in which the applicant resides, provided, however, that no such license shall be issued to nonresidents from states that will not extend to residents of Iowa a similar privilege and provided in addition that in no case shall said fee be less than \$10.00.

Fur-dealer's license 10.00

Nonresident fur-dealer's license:

Upon submitting suitable evidence of legal residence in any other state, nonresidents of Iowa shall be charged the same fee for a nonresident fur-dealer's license as that charged to residents of Iowa, by the state in which the applicant resides, provided, however, that no such license shall be issued to nonresident fur-dealers from states that will not extend to residents of Iowa a similar privilege and provided, in addition, that in no case shall said fee be less than \$50.00.

Net, seine, trap, trotline licenses for residents of state:

Seine: for the first 500 lineal feet or fraction thereof 15.00

and for each additional 500 lineal feet or fraction thereof 15.00

Trammel net: for the first 300 lineal feet or fraction thereof 10.00

and for each additional 300 lineal feet or fraction thereof 10.00

Gill net: for each 100 lineal feet or fraction thereof 2.00

Hoop net: without wings or leads: for each net 1.00

Pound net with less than 100 feet of leads or wings: for each net 3.00

Pound net with leads or wings of 100 or more feet in length: for each net 6.00

Wing, fyke or trap net with less than 100 feet of leads or wings: for each net 1.00

Wing, fyke or trap net with leads or wings of 100 or more feet in length: for each net 6.00

Dip net: for the first net 1.00
and for each additional net 1.00

Wooden basket trap: for the first trap 5.00
and for each additional trap 1.00

Trotline: for the first trotline 3.00
and for each additional trotline 1.00

Owners certificate for commercial fishing gear 15.00

Operator's certificate for each person operating commercial fishing gear 1.00

Net, seine, trap, trotline licenses for nonresident or alien who is eligible to purchase such licenses.

Seine: for the first 500 lineal feet or fraction thereof 20.00

and for each additional 500 lineal feet or fraction thereof 20.00

Trammel net: for the first 300 lineal feet or fraction thereof 20.00

and for each additional 300 lineal or fraction thereof 20.00

Gill net: for the first 300 lineal feet or fraction thereof 20.00

and for each additional 300 lineal feet or fraction thereof	20.00
Hoop nets without wings or leads: for the first net	10.00
and for each additional net	3.00
Wing, pound, fyke or trap net with less than 100 feet of leads or wings: for the first net	12.00
and for each additional net	6.00
Wing, pound, fyke or trap net with leads or wings of 100 feet or more in length: for the first net	20.00
and for each additional net	12.00
Wooden basket traps: for the first trap	10.00
and for each additional trap	3.00
Dip net: for the first net	3.00
and for each additional net	3.00
Trotline: for the first trotline	4.00
and for each additional trotline	4.00
Mussel licenses:	
Legal residents	2.00
Mussel licenses:	
Upon submitting suitable evidence of legal residence in any other state, non-residents of Iowa shall be charged the same fee for a mussel license as that charged to the residents of Iowa by the state in which the applicant resides, provided, however, that no such license shall be issued to nonresidents from states that will not extend to residents of Iowa a similar privilege and provided in addition that in no case shall said fee be less than \$25.00.	
Wholesale fish-market or fish-peddler's license	10.00
Peddlers, employed by wholesale fish market, certificate	1.00
Scientific collector's license	2.00
Private fish hatcheries	2.00
Bait dealer's license	5.00

Each one hundred feet of gill net or fraction thereof 2.00

110.2 Blanks. The state conservation director shall provide blanks for, and determine in addition to the following requirements, the method of issuing licenses.

110.3 Issuance of license. All licenses other than hunting, fishing, and trapping licenses, shall be issued by the director upon application to the departmental office at Des Moines. Hunting, fishing, and trapping licenses shall be issued by the recorder of each county.

110.4 Depositories — bond. The county recorder may designate various depositories for the sale of such licenses other than the office of the county recorder. The director may designate depositories other than those designated by the recorders of the various counties, but in so doing the interest of the state shall be fully protected either by a sufficient cash deposit or a satisfactory bond. Depositories designated by the county recorder or the director may have the privilege of charging an additional five percent of the cost of each license to be retained for the service rendered in issuing the license.

110.5 Fees. The county recorder shall be responsible for all fees for the issuance of hunting and fishing licenses sold through his office, or issued through his office and sold by others. All unused license blanks shall be surrendered to the county recorder upon his demand.

110.6 Lost or destroyed blanks. When license blanks in the possession of the county recorder or depositories are accidentally destroyed, either by fire or theft, the holder of such blanks shall only be relieved from accountability upon the presentation of satisfactory proof and the filing of a bond to the director that such blanks have actually been so destroyed.

110.7 Duplicate licenses and permits.

Whenever any license, certificate or permit, for which a fee has been set, has been lost, destroyed or stolen, the director or the county recorder where the license was issued in the first instance, may issue a certificate to replace said license, if written evidence is filed with either director or recorder, in affidavit form, by the person to whom the original was issued setting forth the circumstances and accompanied by a fee of twenty-five cents, said fee to be kept by the county recorder for the use of the county, if issued by him, and placed in the fish and game protection fund if issued by the director. If, on examination of the evidence, the director or the recorder, as the case may be, is satisfied that said license has been lost, destroyed or stolen, he shall issue a duplicate license which shall be plainly marked "duplicate" and said duplicate shall serve in lieu of the original license and it shall contain the same information and signature as the original.

110.8 Accounting. Within five days after the end of each month, each county recorder shall remit to the director, all duplicate licenses and all fees for such licenses issued during the previous month. On or before the tenth of April each year, each county recorder shall remit to the director all unused license blanks for the previous year, and he shall make a final accounting for all license fees received for that period.

110.9 Duplicate issuance. All licenses shall be issued in duplicate, one copy of which shall be given to the applicant, one shall be forwarded to the director, and the license stub shall be retained in the office of the county recorder.

110.10 Tenure of license. Every license shall expire on April 1 following its issuance.

110.11 Form of license. All hunting, fishing, and trapping licenses shall contain a general description. Such licenses shall be upon

such forms as the commission shall adopt. The occupation, address and the signature of the applicant and all signatures and other writing shall be in ink. All licenses shall bear a facsimile signature of the director and the signature of the recorder by whom it is issued. All licenses shall clearly indicate the nature of the privilege granted.

110.12 Showing license to officer. Every person shall, while fishing, hunting or trapping, show his license, certificate or permit, to any conservation officer, constable, sheriff, deputy sheriff, police officer, peace officer, or the owner or person in lawful control of the land or water upon which licensee may be hunting, fishing or trapping when requested by said persons to do so. Any failure to so carry or refusal to show or so exhibit his license, certificate or permit, shall be a violation of this chapter.

110.13 Unlawful use — effect. The use of a license by a person other than that to whom issued shall nullify said license and such use shall constitute a misdemeanor.

110.14 Revocation or suspension. Upon the conviction of a licensee of any violation of chapter 109 of the Code, or of this act (45GA, ch 30), or of any administrative order adopted and published by the state conservation commission, the magistrate may, as a part of the judgment, revoke the license of said licensee, or suspend the same for any definite period.

110.15 Record of revocation. Whenever a license is revoked the date and cause of such revocation shall be noted on the stub retained by the county recorder and upon the duplicate on file in the office of the commission. The commission may refuse the issuance of a new license to any person whose license has theretofore been revoked.

110.16 Game birds or animals as pets. Any person may possess not more than two game birds or fur-bearing animals confined

as pets without being required to purchase a license as a game breeder, but he shall not be allowed to increase his stock beyond the original number nor shall he be allowed to kill or sell such stock.

110.17 License not required. Owners or tenants of land, and their children, may hunt, fish or trap upon such lands and may shoot ground squirrels, gophers or woodchucks upon adjacent roads without securing a license so to do.

No resident of the state under sixteen years of age or a nonresident of the state under fourteen (14) years of age shall be required to have a license to fish in the waters of the state.

No license shall be required of minor pupils of the state school for the blind, state school for the deaf, nor of minor inmates of other state institutions under the board of control, except that this provision shall not apply to the inmates of the men's penitentiary at Fort Madison, the men's reformatory at Anamosa and the women's reformatory at Rockwell City, nor shall any person during the time the United States is engaged in war who is a member of the military or naval forces of the United States on active duty, and a legal resident of the State of Iowa, be required to have a license to hunt or fish in this state. No license shall be required of inmates of county homes or of any person who is receiving old-age assistance under chapter 249.

No resident of the state under sixteen (16) years of age shall be required to have a license to hunt game if accompanied by his or her parent or guardian or in company with any other competent adult with the consent of the said parent or guardian, if the person accompanying said minor shall possess a valid hunting license, providing, however, that there is one licensed adult accompanying each person under sixteen years of age.

CONTRABAND ARTICLES

110.18 Public nuisance. Any device, con-

trivance or material used to violate any regulation adopted by the commission, or any other provision of this chapter, is hereby declared to be a public nuisance, and it shall be the duty of the state conservation director and his officers, or any peace officer, to seize such devices, contrivances or materials so used, without warrant or process, and to deliver them to some magistrate having jurisdiction. Provided, however, no gun, fishing rod, fishing tackle or automobile shall be construed to be a public nuisance under this section.

110.19 Confiscation. Said magistrate, upon said delivery being made to him, shall docket the proceeding and fix a day and hour for hearing thereon which shall not be more than ten or less than three days after said delivery. Written notice of the time and place of said hearing shall be personally served upon the person from whom the aforesaid articles or things were taken if such person is found in the county, otherwise, said notice shall be served by posting the same in some conspicuous place as near as reasonably possible to the place where the seizure was made. Said notice shall be so served at least two full days prior to said hearing.

110.20 Trial. Trial of said cause shall be, so far as practicable, by the same procedure as is provided in chapter 751 of the Code, so far as the same is applicable, and except as hereinafter provided.

110.21 Order. On said hearing, said magistrate may order such devices, contrivances or materials confiscated and destroyed, or, placed at the disposal of the director, who may either use or sell the same, depositing the proceeds of such sale in the fish and game protection fund.

GUNS

110.22 "Gun" defined. The word "gun" as used in this chapter, shall include every kind of a gun or rifle, except a revolver or

pistol, and shall include those provided with pistol mountings which are designated to shoot shot cartridges.

110.23 Manner of conveyance. No person, except as permitted by law, shall have or carry any gun in or on any vehicle on any public highway, unless such gun be taken down or contained in a case, and the barrels and magazines thereof be unloaded.

110.24 Prohibited guns. No person shall use a swivel gun, nor any other firearm, except such as is commonly shot from the shoulder or hand in the hunting, killing or pursuit of game, and no such gun shall be larger than number 10 gauge.

PENAL PROVISION

110.25 Penalties. Whoever shall violate any of the provisions of this chapter shall be fined not less than ten dollars (\$10.00) nor more than one hundred dollars (\$100.00) or be imprisoned in the county jail not more than thirty (30) days.

CHAPTER 110A

GAME BREEDING AND SHOOTING PRESERVES

110A.1 License requirements.

110A.2 Boundaries posted.

110A.3 What birds released.

110A.4 Manner of release—records.

110A.5 Tags and other markings.

110A.6 Seasons—hunting license.

110A.7 Special wardens.

110A.8 License refusal.

110A.9 Violations—penalty.

110A.1 License requirements. Any person owning, holding or controlling by lease or otherwise, which possession must be for a term of five or more years, any contiguous tract of land having an area of not less than three hundred twenty acres, and not more than

twelve hundred and eighty acres, and providing that there shall be no more than one such area in any township and that not more than three percent of the land area of any county shall be so licensed, who desires to establish a game breeding and shooting preserve area, to propagate, preserve and shoot game birds thereon under the regulations as hereinafter provided, shall make application to the state conservation commission for a license as herein provided. Such application shall be made under oath of the applicant or under oath of one of its principal officers if the applicant is an association, club or corporation. The application shall be accompanied by a license fee of fifty dollars. Upon receipt of such application, the state conservation commission shall inspect the proposed licensed area described in such application and the premises and facilities where game birds are to be propagated, raised or liberated and the cover for game birds in such area and the ability of the applicant to operate a property of this character. If the commission finds that the area contains not less than three hundred twenty acres and not more than twelve hundred and eighty acres, is contiguous, there is no other licensed area in the township and that the licensing of the proposed area will not exceed the three percent county limitation, and has the proper requirements for the operation of such a property; that the game birds propagated or released thereon are not likely to be a menace to other game; that the proposed area will not interfere with the normal activities of migratory birds; that the operation of such property will not work a fraud upon persons who may be permitted to hunt thereon; and that the issuing of the license will otherwise be in the public interest; the commission shall approve such application and issue a game breeding and shooting preserve area license for the operation of such property on the tract described in such application with the rights and subject to the limitations in this chapter prescribed. All game

breeding and shooting preserve area licenses expire on March 31 of each year.

110A.2 Boundaries posted. Upon receipt of such license, the licensee shall promptly post such licensed areas at intervals of not more than five hundred feet with signs to be prescribed by the commission. The boundaries of such licensed game breeding and shooting preserve areas shall also be clearly defined by natural or artificial boundaries or by signs.

110A.3 What birds released. The licensee of any licensed game breeding and shooting preserve area may take, or authorize to be taken within the season hereinafter fixed and designated, and in such numbers as herein provided:

Pen-reared game birds, as defined in section 109.41, released on licensed area may be taken during the shooting season provided in this chapter but not to exceed eighty percent of the total number of species of said game released. Pen-reared waterfowl, two generations removed from the wild and chukar partridge may be released at any time of year for shooting purposes and one hundred percent may be harvested by shooting. The word waterfowl shall be defined as those birds constituting the Anatidae as listed in section 109.41. All birds so released shall be at least twelve weeks of age before liberation date. A minimum of one hundred pen-reared birds of each species to be shot shall be released during the open season. Experimental releases of less than one hundred birds of each species shall require a special permit from the conservation commission.

110A.4 Manner of release — records. For the purpose of this chapter, game birds shall be released upon licensed game breeding and shooting preserve areas in a manner satisfactory to the commission. The licensee shall keep a register which shall clearly show the number and kind of game birds released and propagated each year, the date of release,

and also the number and kind of game birds taken, the date when taken and the disposition made of such game birds, and shall make such reports under oath as to game birds released, propagated and taken, at such times and in such manner as may be required by the commission. The commission shall keep an adequate record of the number of birds released and propagated on each licensed game breeding and shooting preserve area in each year and of the birds taken.

110A.5 Tags and other markings. The commission shall prepare special tags suitable for use upon legs of game birds, which tags shall be of a type not removable without breaking and mutilating the tag, such tags, to be used to designate birds taken upon a licensed game breeding and shooting preserve area. Upon application and payment of a fee of five cents for each tag, the commission shall furnish licensees with such tags; provided that the commission shall not in any year furnish any licensee a number of tags in excess of the number of game birds which may lawfully be taken from such licensed area as hereinbefore provided. One of such tags shall be securely affixed to one of the legs of each game bird taken before removing same from such licensed area, and such tag shall remain upon the leg of such game bird until such bird is finally prepared for consumption.

All waterfowl released for shooting purposes shall be punched through the outer web of the birds right foot at not more than four weeks of age, so as to provide for permanent identification.

110A.6 Seasons — hunting license. No person shall take any game bird upon a game breeding and shooting preserve area, by shooting in any manner, except between September 1, and March 31, of each year, both dates inclusive.

Waterfowl may not be shot over any water area wherein pen-reared birds might serve as live decoys for wild waterfowl.

Every person taking game birds upon such licensed game breeding and shooting preserve area shall secure a hunting license so to do in accordance with the provisions of the game laws of Iowa, with the exception that a non-resident may secure a hunting license restricted to shooting preserve areas for a license fee of five dollars per year.

110A.7 Special wardens. The commission may designate any operator of a licensed game breeding and shooting preserve area or any of his or its agents or employees as a special representative of the commission with power to enforce the game laws and to prevent trespassing upon such property and to hunt and trap rodents and other mammals or birds which are destroying or likely to destroy the game birds raised or liberated on such area. Such special representative shall be subject to rules and regulations to be prescribed by the commission and shall serve without compensation from the commission.

110A.8 License refusal. The commission may either refuse to issue or refuse to renew or may suspend or may revoke any game breeding and shooting preserve area license if the commission finds that such licensed area or the operator thereof is not complying or does not comply with the provisions of this chapter, or that such property, or area is operated in violation of other provisions of this chapter, or in an unlawful or illegal manner.

110A.9 Violations —penalty. Any licensee or any other person, who willfully and intentionally transfers or permits the transfer of the tags issued to the operator of one licensed game breeding and shooting preserve area, or to any other person, or who affixes such tags to game birds not taken from a licensed game breeding and shooting preserve area or to game birds taken from any area other than the area for which such tags were issued, is guilty of a misdemeanor.

CHAPTER 111

CONSERVATION AND PUBLIC PARKS

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111.1 Secretary. The secretary of the executive council shall, without additional compensation, act as secretary of the state conservation commission.

111.2 Duties in general. The commission shall investigate places in Iowa rich in natural history, forest reserves, archaeological specimens, and geological deposits; and the means of promoting forestry and maintaining and preserving animal and bird life and the conservation of the natural resources of the state.

111.3 Duties as to parks. It shall be the duty of the commission, under the supervision and direction of the executive council to establish, maintain, improve and beautify public parks and preserves upon the shores of lakes, streams, or other waters or at other places within the state which have become historical or which are of scientific interest, or which by reason of their natural scenic beauty or location are adapted therefor. The commission shall have the power under such supervision and direction, to maintain, im-

prove or beautify state-owned bodies of water, and to provide proper public access thereto. The commission shall have the power to provide and operate facilities for the proper public use of the areas above described.

111.4 Construction permit — regulations — commercial concessions. No person, association or corporation shall build or erect any pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind upon or over any state-owned land or water under the jurisdiction of the commission, without first obtaining from such commission a written permit, provided, however, that this provision shall not apply to dams constructed and operated under the authority of chapter four hundred sixty-nine. No such permit, in matters relating to or in any manner affecting flood control, shall be issued without approval of the Iowa natural resources council. No person shall maintain or erect any structure beyond the line of private ownership along or upon the shores of state-owned waters in such a manner as to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

It shall be the duty of the commission to adopt and enforce rules and regulations governing and regulating the building or erection of any such pier, wharf, sluice, piling, wall, fence, obstruction, building or erection of any kind, and said commission may prohibit, restrict or order the removal thereof, when in the judgment of said commission it will be for the best interest of the public.

Any person, firm, association, or corporation violating any of the provisions of this section or any rule or regulation adopted by the commission under the authority of this section shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not to exceed one hundred dollars or by imprisonment in the county jail not to exceed thirty days.

No person, association or corporation shall

operate any commercial concession on any state-owned lands or waters without first obtaining from the conservation commission a permit therefor. The commission may issue and revoke such permits for the protection of the public health, safety, morals or welfare.

111.5 Obstruction removed. The commission shall have full power and authority to order the removal of any pier, wharf, sluice, piling, wall, fence, obstruction, erection or building of any kind upon or over any state-owned lands or waters under their supervision and direction, when in their judgment it would be for the best interests of the public, the same to be removed within thirty days after written notice thereof by the commission. Should any person, firm, association or corporation fail to comply with said order of the commission within the time provided, the commission shall then have full power and authority to remove the same.

111.6 Costs—lein. The costs of such removal shall be paid by the owner of said pier, wharf, sluice, piling, wall, fence, obstruction, erection or building, and the state shall have a lein upon the property removed for such costs. Said costs shall be payable at the time of removal and such lein may be enforced and foreclosed, as provided for the foreclosure of chattel mortgages in chapter 652.

111.7 Eminent domain. The executive council may, upon recommendation of the commission, purchase or condemn lands for public parks. No contract for the purchase of such public parks shall be made to an amount in excess of funds appropriated therefor by the general assembly.

111.8 Highways. The executive council may, upon the recommendation of the commission, purchase or condemn highways connecting such parks with the public highways. When such highways have been purchased or condemned the same shall be public highways

of the state and shall be maintained as other public highways of the county.

111.9 Condemnation statutes. All the provisions of the law relating to the condemnation of lands for public state purposes shall apply to the provisions hereof in and so far as applicable.

111.10 Title to lands. The title to all lands purchased, condemned, or donated, hereunder, for park or highway purposes shall be taken in the name of the state and if thereafter it shall be deemed advisable to sell any portion of the land so purchased or condemned, the proceeds of such sale shall be placed to the credit of the said public state parks fund to be used for such park purposes.

111.11 Gifts. The commission with the written consent of the executive council, may accept gifts of land or other property, or the use of lands or other property for a term of years, and improve and use the same as public state parks.

111.12 Conditions — lands. The conditions attached to a gift shall be entered in writing as part of the record of the title by which the state takes the lands, and shall be inscribed upon any chart, map, or description of said park if the conditions are made by the grantor in lieu of money as a consideration paid by the state.

111.13 Conditions—personalty. If the donation be other than real estate and a particular specification for its use be made by the donor, no part of such donation shall be used or expended for any other purpose.

111.14 Reversion of gift. If the lands transferred to the state as a gift, or if lands purchased in whole or in part by the state from moneys given for that purpose, shall be abandoned or sold and not used for state park purposes, the donor shall reclaim the land or funds donated by filing his request in writing with the executive council within six

months of the time of the abandonment or sale by the state of such lands, but no interest or other charge shall be demanded of or paid by the state. Any unclaimed funds shall be used for park purposes.

111.15 Use of private funds. The commission may permit the improvement of parks, when established, or the improvement of bodies of water, upon the border of which such parks may be established, by the expenditure of private funds, such improvement to be done, however, under the direction of the commission, by and with the consent of the executive council.

111.16 Landscape architect. The commission may call upon the state college of agriculture and mechanic arts for the services of at least one competent landscape architect, engineer, or gardener, who shall, under the direction of the commission, proceed to work with it in the improvement of the state property under the control of said commission. The president of said college, shall, when called upon, designate the landscape architect, engineer, or gardener, as the case may be, who shall work with said commission.

111.17 Expense and compensation. All necessary expenses incurred by such landscape architect, engineer, or gardener under the provisions of section 111.16, shall be paid in the same manner as are other expenditures by the commission, but no other compensation shall be paid for such services.

111.18 Jurisdiction. Jurisdiction over all meandered streams and lakes of this state and of state lands bordering thereon, not now used by some other state body for state purposes, is conferred upon the commission. The exercise of this jurisdiction shall be subject to the approval of the Iowa natural resources council in matters relating to or in any manner affecting flood control. The commission, with the approval of the executive council, may establish parts of such property into

state parks, and when so established all of the provisions of this chapter relative to public parks shall apply thereto.

111.19 Boundaries. The commission shall at once proceed to establish the boundary lines between the state-owned property under its jurisdiction and privately owned property when said commission deems it feasible and necessary, and shall where deemed advisable mark the same so that the boundaries of such state-owned property may be easily ascertainable to the public.

111.20 Highway commission — duties. The commission may call upon the highway commission for the services of at least one competent engineer, who shall, under the direction of the conservation commission, proceed to work in conjunction with it in carrying out the true spirit and purpose of this chapter.

111.21 County engineer—duties. The commission may call upon the county engineer of any county to advise relative to the true boundary between the state-owned property and private property in the county, and to furnish plats and surveys showing such true boundary lines, and when directed by the commission, shall mark such boundary lines as herein provided.

111.22 Surveys and plats. All surveys and plats shall be filed with the secretary of the commission, and shall become public records of this state.

111.23 Compensation. The compensation and expenses of the highway engineer shall be paid as a part of the maintenance of the highway commission, and of the county engineer by the county, as the case may be.

111.24 Boundaries — adjustment. Whenever a controversy shall arise as to the true boundary line between state-owned property and private property, the commission may, with the approval of the executive council, ad-

just said boundary line or take such other action in the premises, all with the approval of the executive council, as in its judgment may seem right. When such disputed boundary line is fixed it shall be surveyed and marked as herein provided.

111.25 Leases. The commission may, with the approval of the executive council, lease for periods not exceeding five years such parts of the property under its jurisdiction as to it may seem advisable. All leases shall reserve to the public of the state the right to enter upon the property leased for any lawful purpose.

111.26 Special police. The commission in carrying out its duties may appoint the state conservation director, chief of division of lands and waters, chief of division of fish and game, and four assistants and boat inspectors as special police. Such officers are hereby vested with the powers and charged with the duties of peace officers while in the performance of their official duties.

111.27 Management by municipalities. The commission may, subject to the approval of the executive council, enter into an agreement or arrangement with the board of supervisors of any county or the council of any city or town whereby such county, city, or town shall undertake the care and maintenance of any state park. Counties, cities, and towns are authorized to maintain such parks and to pay the expense thereof from the general fund of such county, city, or town as the case may be.

111.28 Expenditure by cities. Any one or more cities or towns may through action of its city or town council expend money to aid in the purchase of land within the county for state parks which, when purchased shall be the property of the state of Iowa, to be cared for as state parks.

111.29 Limitation on expenditures. The

amount to be paid by such city or cities, or by such town or towns shall in no event exceed one-half of the total purchase price of the land involved in any single purchase, and in no event shall the total amount paid by such city or cities, or by such town or towns in any single purchase exceed the sum of fifty thousand dollars.

111.30 City funds available. Any such city or cities, or any town or towns, aiding in the purchase of land for state parks, as provided for in sections 111.28 and 111.29 may pay for the same out of the general fund, or the park fund, or may issue bonds for the payment of the same and levy a tax for the payment of such bonds and the interest thereon.

111.31 Sale of islands. No islands in any of the meandered streams and lakes of this state or in any of the waters bordering upon this state shall hereafter be sold, except with the majority vote of the executive council upon the majority recommendation of the commission, and in the event any of such islands are sold as herein provided and the proceeds thereof shall become a part of the funds to be expended under the terms and provisions of this chapter.

111.32 Sale of park lands. The executive council may, upon a majority recommendation of the commission, sell or exchange such parts of public lands under the jurisdiction of the commission as in its judgment may be undesirable for conservation purposes, excepting state-owned meandered lands already surveyed and platted at state expense as a conservation plan and project tentatively adopted and now in the process of rehabilitation and development authorized by a special legislative act. Such sale or exchange shall be made upon such terms, conditions or considerations as the commission may recommend and that may be approved by the executive council, whereupon the secretary of state shall issue a patent therefor in the manner provided by law in other cases. The proceeds of any such

sale or exchange shall become a part of the funds to be expended under the provisions of this chapter.

111.33 Form of conveyance. Conveyances shall be in the name of the state, signed by the governor and secretary of state, with the great seal of the state attached.

111.34 Powers in municipalities. Municipalities, or individuals, or corporations organized for that purpose only, acting separately or in conjunction with each other, may establish like parks outside the limits of cities or towns, and when established without the support of the public state parks fund, the municipalities, corporations, or persons establishing the same, as the case may be, shall have control thereof independently of the executive council; but none of the said municipalities, individuals, or corporations acting under the provisions of this section shall establish, maintain or operate any such park as herein contemplated for pecuniary profit.

111.35 Prohibited destructive acts. It shall be unlawful for any person to use, enjoy the privileges of, destroy, injure, or deface plant life, trees, buildings, or other natural or material property, or to construct or operate for private or commercial purposes any structure, or to remove any plant life, trees, buildings, sand, gravel, ice, earth, stone, wood or other natural material, or to operate vehicles within the boundaries of any state park, preserve, or stream or any other lands and or waters under the jurisdiction of the conservation commission for any purposes whatsoever, except upon the terms, conditions, limitations and restrictions as set forth by the conservation commission.

111.36 Speed limit. The maximum speed limit of all vehicles on state park and preserve drives, roads and highways shall be thirty-five miles per hour. All driving shall be confined to designated roadways. Whenever the state conservation commission shall deter-

mine that the speed limit hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of the park roads, drives or highways, said commission shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such places of congestion or other parts of the park roads, drives or highways.

111.37 Excessive loads. Excessively loaded vehicles shall not operate over state park or preserve drives, roads or highways. The determination as to whether the load is excessive will be made by the state conservation director or his representative and will depend upon the load and the road conditions.

111.38 Parking. All vehicles shall be parked in designated parking areas, and no vehicle shall be left unattended on any state park or preserve drive, road or highway, except in the case of an emergency.

111.39 Hitching to trees. No horse or other animal shall be hitched or tied to any tree or shrub, or in such a manner as to result in injury to state property.

111.40 Fires. No fire shall be built, except in a place provided therefor, and such fire shall be extinguished when site is vacated unless it is immediately used by some other party.

111.41 Removing plants, flowers or fruit. No person shall, in any manner, remove, destroy, injure or deface any tree, shrub, plant or flower, or the fruit thereof, or disturb or injure any structure or natural attraction, except that upon written permission of the commission, certain specimens may be removed for scientific purposes.

111.42 Firearms, etc. The use by the public of firearms, fireworks, explosives and

weapons of all kinds is prohibited in all state parks and preserves.

111.43 Littering grounds. No person shall place any waste, refuse, litter, or foreign substance in any area or receptacle except those provided for that purpose.

111.44 Prohibited areas. No person shall enter upon portions of any state park or preserve in disregard of official signs forbidding same, except by permission of the state conservation director or his representative.

111.45 Animals on leash. No privately owned animal shall be allowed to run at large in any state park or preserve or upon lands or in waters owned by or under the jurisdiction of the commission except by permission of the commission. Every such animal shall be deemed as running at large unless the owner carries such animal or leads it by a leash or chain not exceeding six feet in length, or keeps it confined in or attached to a vehicle.

111.46 Closing time. Except by arrangement or permission granted by the director or his authorized representative, all persons shall vacate state parks and preserves before ten-thirty o'clock p.m. Areas may be closed at an earlier or later hour, of which notice shall be given by proper signs or instructions. The provisions of this section shall not apply to authorized camping in areas provided for that purpose.

111.47 Camping. The commission is hereby authorized to fix fees for camping and other special privileges which shall be in such amounts as may be determined by the commission upon a basis of the cost of providing and reasonable value of such privileges.

111.48 Camping areas. No person shall camp in any portion of a state park or preserve except in portions described or designated by the commission.

111.49 Time limit. No person shall be permitted to camp for a period longer than that designated by the commission for the specific state park or preserve, and in no event longer than for a period of two weeks.

111.50 Registering—vacating. Any person who camps in any state park or preserve shall register his or her name and address with the park custodian and advise the custodian when the camp is vacated.

111.51 Camping refused. Custodians are given authority to refuse camping privileges and to rescind any and all camping permits for cause.

ICE, SAND AND GRAVEL REMOVAL

111.52 Agreement with commission. No person shall remove any ice, sand, gravel, stone, wood, or other natural material from any lands or waters under the jurisdiction of the commission without first entering into an agreement with the commission.

111.53 Permits. The commission may enter into agreements for the removal of ice, sand, gravel, stone, wood, or other natural material from lands or waters under jurisdiction of the commission if, after investigation, it is determined that such removal will not be detrimental to the state's interest. The commission may specify the terms and consideration under which such removal is permitted and issue written permits for such removal.

111.54 Barriers on ice field. Any person removing ice under a permit shall erect barriers on any part of an ice field where ice is cut, where said field crosses or traverses any part of a stream or lake that is used as a way of passage.

111.55 Dredging. In removing sand, gravel, or other material from state-owned waters by dredging, the operator shall so arrange his equipment that other users of the lake or stream shall not be endangered by cables,

anchors, or any concealed equipment. No waste material shall be left in the water in such manner as to endanger other craft or to change the course of any stream.

111.56 Disturbing natural bank. When operations are entirely on private property adjacent to a public lake or stream the natural bank between the state and privately owned areas shall not be removed except by permission of the commission.

111.57 Penalties. Any person violating any of the provisions of the foregoing sections numbered 111.35 to 111.56, inclusive, shall, upon conviction, be fined not to exceed one hundred dollars or be imprisoned in the county jail not to exceed thirty days.

MAINTENANCE EQUIPMENT

111.58 Use by cities, counties and highway commission. The council within the limits of the municipal corporation, the board of supervisors within the limits of the county and the state highway commission, are hereby given authority to permit use of maintenance equipment under their control in state parks and other lands of the conservation commission, notwithstanding any other provisions of the Code to the contrary.

CHAPTER 111A

COUNTY CONSERVATION BOARD

111A.1 Purposes.

111A.2 Petition—board membership.

111A.3 Meetings—annual report.

111A.4 Powers and duties.

111A.5 Rules and regulations—officers.

111A.6 Funds — tax levy — gifts—anticipatory bonds.

111A.7 Joint operations.

111A.8 School property used.

111A.9 Advice and assistance.

111A.1 Purposes. The purposes of this

chapter are to create a county conservation board and to authorize counties to acquire, develop, maintain, and make available to the inhabitants of the county, public parks, preserves, parkways, playgrounds, recreational centers, county forests, wildlife and other conservation areas, and to promote and preserve the health and general welfare of the people, to encourage the orderly development and conservation of natural resources, and to cultivate good citizenship by providing adequate programs of public recreation.

111A.2 Petition—board membership. Upon petition of two hundred voters in any county to the board of supervisors thereof, said board shall submit to the people of the county at the next primary or general election the question whether a county conservation board shall be created as provided for in this chapter. If at said election the majority of votes polled for the creation of a county conservation board, the board of supervisors shall within sixty days after said election, create a county conservation board to consist of five bona fide residents of such county. The members first appointed shall hold office for the term of one, two, three, four and five years respectively, as indicated and fixed by the county board of supervisors. Thereafter, succeeding members shall be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term. When any member of the board, during the term of office, shall cease to be a bona fide resident of the county, he or she shall thereby be disqualified as a member of said board and his or her office shall thereupon be declared vacant. Members of the board shall be selected and appointed on the basis of their demonstrated interest in conservation matters, and shall serve without compensation, but may be paid their actual and necessary expenses incurred in the performance of their official duties. Members of the county conservation board may be removed for cause by the body

making such appointment, but every such removal shall be by written order, which shall be filed with the county auditor.

111A.3 Meetings — annual report. Within thirty days after their appointment, the board shall organize by selecting from its members a president and secretary and such other officers as are deemed necessary, who shall hold office for the calendar year in which elected and until their successors are selected and qualify. Three members of the board shall constitute a quorum for the transaction of business. The board shall hold regular monthly meetings. Special meetings may be called by the president, and shall be called on the request of a majority of members, as the necessity may require. The county conservation board shall have power to adopt bylaws, to adopt and use a common seal and to enter into contracts. The county board of supervisors shall provide suitable offices for the meetings of the county conservation board and for the safekeeping of its records. Such records shall be subject to public inspection at all reasonable hours and under such regulations as the county conservation board may prescribe. Said board shall annually make a full and complete report to the county board of supervisors of its transactions and operations for the preceding year. Such report shall contain a full statement of its receipts, disbursements, and the program of work for the period covered, and may include such recommendations as may be deemed advisable. A copy of this report shall be filed with the state conservation commission.

111A.4 Powers and duties. The county conservation board shall have the custody, control and management of all real and personal property heretofore or hereafter acquired by the county for public parks, preserves, parkways, playgrounds, recreation centers, county forests, county wildlife areas, and other county conservation and recreation purposes and is authorized and empowered:

1. To study and ascertain the county's park, preserve, parkway, and recreation and other conservation facilities, the need for such facilities, and the extent to which such needs are being currently met, and to prepare and adopt a coordinated plan of areas and facilities to meet such needs.

2. To acquire in the name of the county by gift, purchase, lease, agreement or otherwise, in fee or with conditions, suitable real estate within or without the territorial limits of the county areas of land and water for public parks, preserves, parkways, playgrounds, recreation centers, forests, wildlife and other conservation purposes. The state conservation commission, the county board of supervisors, or the governing body of any city, town or village may upon request of the county conservation board, designate, set apart and transfer to the county conservation board for use as parks, preserves, parkways, playgrounds, recreation centers, play fields, tennis courts, skating rinks, swimming pools, gymnasiums, rooms for arts and crafts, camps and meeting places, community forests, wildlife areas and other recreational purposes, any land and buildings owned or controlled by the state conservation commission or such county or municipality and not devoted or dedicated to any other inconsistent public use. In acquiring or accepting land, due consideration shall be given to its scenic, historic, archaeologic, recreational or other special features, and no land shall be acquired or accepted which in the opinion of the board and the state conservation commission is of low value from the standpoint of its proposed use.

3. The county conservation board shall file with and obtain approval of the state conservation commission on all proposals for acquisition of land, and all general development plans and programs for the improvement and maintenance thereof before any such program is executed.

4. To plan, develop, preserve, administer and maintain all such areas, places and facil-

ities, and construct, reconstruct, alter and renew buildings and other structures, and equip and maintain the same.

5. To accept in the name of the county gifts, bequests, contributions and appropriations of money and other personal property for conservation purposes.

6. To employ and fix the compensation of an executive officer who shall be responsible to the county conservation board for the carrying out of its policies. The said executive officer shall have the power, subject to the approval of said board, to employ and fix the compensation of such assistants and employees as may be deemed necessary for carrying out the purposes and provisions of this chapter, but not in excess of those paid state conservation officers and employees for like services.

7. To charge and collect reasonable fees for the use of such facilities, privileges and conveniences as may be provided and for admission to amateur athletic contests, demonstrations and exhibits and other non-commercial events.

8. To let out and rent privileges in or upon any property under its control upon such terms and conditions as are deemed by it to be in the public interest.

111A.5 Rules and regulations — officers.

The county conservation board may make, alter, amend or repeal rules and regulations for the protection, regulation and control of all parks, preserves, parkways, playgrounds, recreation centers, and other property under its control. No rules and regulations adopted shall be contrary to, or inconsistent with, the laws of the state of Iowa. Such rules and regulations shall not take effect until ten days after their adoption by said board and after their publication once a week for two weeks in at least one paper circulating in the county and after a copy thereof has been posted near each gate or principal entrance to the public ground to which they apply. The board may designate the executive officer and such em-

ployees as he may designate as police officers who shall have all the powers conferred by law on police officers, peace officers, or sheriffs in the enforcement of the laws of the state of Iowa and the apprehension of violators thereof.

111A.6 Funds—tax levy—gifts—anticipatory bonds.

Upon the adoption of any county of the provisions of this chapter, the county board of supervisors of such county may by resolution appropriate an amount of money from the general fund of the county for the payment of expenses incurred by the county conservation board in carrying out its powers and duties, and it may levy or cause to be levied an annual tax, in addition to all other taxes, of not less than one-fourth mill or more than one mill on the dollar of the assessed valuation of all real and personal property subject to taxation within such county, upon proper certification by said county conservation board made pursuant to and in compliance with all of the provisions of chapter twenty-four of the Code, which tax shall be collected by the county treasurer as other taxes are collected, and shall be paid into a separate and distinct fund to be known as the county conservation fund, to be paid out upon the warrants drawn by the county auditor upon requisition of the county conservation board for the payment of expenses incurred in carrying out the powers and duties of said conservation board. The county conservation board shall have no power or authority to contract any debt or obligation in any year in excess of the moneys in the hands of the county treasurer immediately available for such purposes. Any single expenditure of, or contract to expend, a sum of five thousand dollars shall be subject to the provisions of chapter twenty-three of the Code. Gifts, contributions and bequests of money and all rent, licenses, fees and charges and other revenue or money received or collected by the board shall be deposited in the county conservation fund to be used for the purchase of land, property and equipment and the payment of ex-

penses incurred in carrying out the activities of the board, except that moneys given, bequeathed, or contributed upon specified trusts shall be held and applied in accordance with the trust specified.

In order to make immediately available to the county conservation board the proceeds of the annual tax hereinafter authorized to be levied for recreation and conservation purposes, bonds of any county having a population in excess of ninety thousand (90,000) may be issued in anticipation of the collection of such tax in the manner hereinafter provided. Upon the filing of a petition by the conservation board with the county board of supervisors asking that bonds be issued in a specified amount for the purpose of paying the cost of acquiring land and developing the same for public park, parkway, preserve, playground, or other recreation or conservation purposes within the county, then the board of supervisors may call a special election to be held in the county to vote on the proposition of issuing such bonds. Notice of such election shall be published once each week for at least four consecutive weeks in one of the official county newspapers, and the election shall be held on a day not less than five nor more than twenty days after the last publication of such notice. Voting machines may be used for the purpose of voting on said proposition or, in the discretion of the board of supervisors, the proposition may be submitted to the voters on paper ballots. The proposition shall be submitted in substantially the following form:

"Shall _____ County, Iowa
issue its bonds in the amount of \$ _____
for the purpose of _____?"

The expenses incurred in connection with the conduct of such election shall be paid by the conservation board from the county conservation fund. If the vote in favor of issuing the bonds is equal to at least sixty percent of the

total votes cast for and against the proposition, the board of supervisors shall issue the bonds in the amount voted, and shall provide for the levy of an annual tax, within the limits of the special tax hereinbefore authorized, sufficient to pay said bonds and the interest thereon as the same respectively become due. Said bonds shall mature in not more than twenty years, shall bear interest at a rate or rates not exceeding five percent per annum, shall be in such form as the board of supervisors shall by resolution provide, and shall be payable as to both principal and interest from the proceeds of the annual levy of the one mill tax hereinbefore authorized to be levied for recreation and conservation purposes, or so much thereof as will be sufficient to pay the principal thereof and interest thereon, and prior to the authorization and issuance of such bonds the board of supervisors may, with or without notice, negotiate and enter into an agreement or agreements with any bank, investment banker, trust company or insurance company or group thereof whereunder the marketing of such bonds may be assured and consummated. The proceeds of such bonds shall be deposited in a special fund, to be kept separate and apart from all other funds of the county, and shall be paid out upon warrants drawn by the county auditor upon requisition of the conservation board to pay the cost of acquiring land and developing the same for recreation and conservation purposes as specified in the election proposition. Nothing herein contained shall be construed to limit the authority of the board of supervisors to levy the full one mill recreation and conservation tax, but if and to whatever extent said tax is levied in any year in excess of the amount of the principal and interest falling due in such year on said bonds, the first available proceeds thereof, to an amount sufficient to meet maturing settlements of principal and interest on such bonds, shall be paid into the sinking fund for such bonds before any of such taxes are deposited in the county conservation fund or are otherwise made avail-

able to the county conservation board, and the amount required to be annually set aside to pay the principal of and interest on the bonds shall constitute a first charge upon all of the proceeds of such annual special tax, which tax shall be pledged to pay said bonds and the interest thereon. This law shall be construed as supplemental and in addition to existing statutory authority and as providing an independent method of financing the cost of acquiring land and developing the same for public park, parkway, preserve, playground, or other recreation or conservation purposes, and for the issuance and sale of bonds in connection therewith, and shall not be construed as subject to the provisions of any other law. The aggregate amount of bonds issued and outstanding at any time hereunder shall not exceed one million dollars in any single county. The fact that a county may have bonds previously issued and outstanding under authority of this law shall not prevent such county from issuing additional bonds hereunder, provided that the aggregate amount of such bonds does not exceed the maximum hereinbefore established. All acts and proceedings heretofore taken by any county conservation board or board of supervisors for the exercise of any of the powers herein granted are hereby legalized and validated in all respects.

111A.7 Joint operations. Any county conservation board may co-operate with the federal government or the state government or any department or agency thereof to carry out the purposes and provisions of this chapter. Any county conservation board may join with any other county board or county boards to carry out the provisions of this chapter, and to that end may enter into agreement with each other and may do any and all things necessary or convenient to aid and to co-operate in carrying out the provisions of the chapter. Any city, town, village or school district may aid and co-operate with any county conservation board or any combination thereof in equipping, operating and maintain-

ing any parks, preserves, parkways, playgrounds, recreation centers, and conservation areas, and for providing, conducting and supervising programs of activities, and may appropriate money for such purposes. The state conservation commission, county engineer, county agricultural agent, and other county officials shall render such assistance as shall not interfere with their regular employment. The board of supervisors is authorized to make available to the use of the county conservation board, county-owned equipment and operators and any county-owned materials it deems advisable.

111A.8 School property used. The governing body of any school district may grant the use of any buildings, grounds, or equipment of the district to any county conservation board for the purpose of carrying out the provisions of this chapter whenever such use of the school buildings, grounds or equipment for such purposes will not interfere with the use of the buildings, grounds and equipment for any purpose of the public school system.

111A.9 Advice and assistance. The state conservation commission and the state department of public instruction shall advise and may assist any county or counties in carrying out the purposes of this chapter.

CHAPTER 112

DAMS AND SPILLWAYS

Referred to in §109.1

- 112.1 Resolution of necessity.
- 112.2 Expert plan.
- 112.3 Hearing — damages.
- 112.4 Adoption of plan.
- 112.5 Appraisal of damages.
- 112.6 Filing appraisalment.
- 112.7 Damages determined.
- 112.8 Appeal—bond.
- 112.9 Final determination and costs.
- 112.10 Tentative plan.

112.1 Resolution of necessity. Whenever, in the opinion of the state conservation commission, it is necessary and desirable for it to erect a dam or spillway across a stream or at the outlet of a lake, or to alter or reconstruct an existing dam or spillway, so as to increase or decrease its permanent height, or to permanently affect the water level above the structure, it shall proceed with said project by first adopting a resolution of necessity to be placed upon its records, in which it shall describe in a general way the work contemplated.

112.2 Expert plan. The commission upon receipt of a report and plan prepared by a competent civil engineer, showing the work contemplated, the effect on the water level, and probable cost and such other facts and recommendations as may be deemed material, may approve said plan which shall be considered a tentative plan only, for the project.

112.3 Hearing — damages. After said approval the commission, if it wishes to proceed further with the project, shall, with the consent of the Iowa natural resources council, fix a date of hearing not less than two weeks from date of approval of the plan. Notice of the day, hour and place of hearing, relative to proposed work, shall be provided by publication at least once a week for two consecutive weeks in some newspaper of general circulation published in the county where the project is located, or in the county or counties where the water elevations are affected, under the tentative plan approved. The last of such publication or publications shall not be less than five days prior to the day set for hearing. Any claim by any persons whomsoever, for damages which may be caused by said project shall be filed with the commission at or prior to the time of the hearing provided herein.

112.4 Adoption of plan. If, at the time of the hearing, the commission shall find that

the improvement would be conducive to the public convenience, welfare, benefit or utility, and the cost thereof is not excessive, and no claim shall have been filed for damages, it may adopt the tentative plan as final or may modify the plan provided said modification will not to any greater extent than the tentative plan, materially and adversely affect the interests of littoral or riparian owners.

112.5 Appraisal of damages. If, at the time of the hearing, the claims for damages shall be continued to an adjourned, regular or special session, the date and place of which shall be fixed at the time of adjournment and of which all interested parties shall take notice, and the commission shall have the damages appraised by three appraisers to be appointed by the chief justice of the supreme court. One of these appraisers shall be a registered civil engineer resident of the state and two shall be free-holders of the state, who shall not be interested in nor related to any person affected by the proposed project.

112.6 Filing appraisement. The appraisers appointed to determine the damages caused by the proposed project shall view the premises and determine and fix the amount of damages to which each claimant is entitled and shall, at least three days before the date fixed by the commission to hear and determine the same, file with the secretary of the commission reports in writing showing the amount of damages sustained by each claimant. Should good cause for delay exist, the commission may postpone the time of final action on the project.

112.7 Damages determined. At the time fixed for hearing and after receipt of the report of the appraisers, the commission shall examine said report, both for and against each claim for damages and compensation and shall determine the amount of damages and compensation due each claimant and may affirm, increase or diminish the amount

CHAPTER 161

FRUIT-TREE AND FOREST RESERVATIONS

Referred to in §159.6

awarded by the appraisers. After such action, the commission may thereupon adopt a final plan for the project and proceed with its construction, or it may dismiss the entire proceedings.

112.8 Appeal—bond. Appeals from orders or actions of the commission fixing the amount of compensation awarded or damages sustained by any claimant shall be treated as ordinary proceedings. All other appeals shall be triable in equity. The court may, in its discretion, order the consolidation for trial of two or more of such equitable cases. All appeals shall be taken within twenty days after date of final action or order of the commission from which such appeal is taken, by filing with the secretary of the commission a notice of appeal designating the court to which the appeal is taken, the order or action appealed from and stating that the appeal will come on for hearing at the next succeeding term of the court and designating such term. This notice shall be accompanied by an appeal bond with sureties to be approved by the clerk of the district court conditioned to pay all costs adjudged against the appellant.

112.9 Final determination and costs The amount of damages or compensation found by the court shall be entered of record. Unless the result on the appeal is more favorable to the appellant then the action of the commission, all costs of the appeal shall be taxed to the appellant, but if more favorable, the cost shall be taxed to the appellees. All damages assessed and all costs occasioned under this chapter shall be paid from the funds of the commission.

112.10 Tentative plan. If, at the time of hearing on the tentative plan, no objectors appear and no claim for damages or compensation shall have been filed, or if proper waivers giving consent to the construction of the proposed improvement have been obtained from all parties affected then the commission may adopt the tentative plan as final and proceed with the work proposed.

- 161.1 Tax exemption.
- 161.2 Reservations.
- 161.3 Forest reservation.
- 161.4 Removal of trees.
- 161.5 Forest trees.
- 161.6 Groves.
- 161.7 Fruit-tree reservation.
- 161.8 Fruit trees.
- 161.9 Replacing trees.
- 161.10 Restraint of livestock.
- 161.11 Penalty.
- 161.12 Assessor.
- 161.13 County auditor.

161.1 Tax exemption. Any person who establishes a forest or fruit-tree reservation as provided in this chapter shall be entitled to the tax exemption provided by law.

161.2 Reservations. On any tract of land in the state of Iowa, the owner or owners may select a permanent forest reservation or reservations, each not less than two acres in continuous area, or a fruit-tree reservation or reservations, not less than one or more than ten acres in total area, or both, and upon compliance with the provisions of this chapter, such owner or owners shall be entitled to the benefits provided by law.

161.3 Forest reservation A forest reservation shall contain not less than two hundred growing forest trees on each acre. If the area selected is a forest containing the required number of growing forest trees, it shall be accepted as a forest reservation under the provisions of this chapter. If the area selected as a forest containing less than two hundred forest trees to the acre, or if it is a grove or an area to be planted to trees, the owner or owners thereof shall have planted, cultivated and otherwise properly cared for the number

of forest trees necessary to bring the total number of growing trees to not less than two hundred on each acre, during a period of not more than two years, after it has been accepted as a forest reservation within the meaning of this chapter. No ground upon which any farm buildings stand shall be recognized as part of any such reservation.

161.4 Removal of trees. Not more than one-fifth of the total number of trees in any forest reservation may be removed in any one year, excepting in cases where the trees die naturally.

161.5 Forest trees. The ash, black cherry, black walnut, butternut, catalpa, coffee tree, the elms, hackberry, the hickories, honey locust, Norway and Carolina poplars, mulberry, the oaks, sugar maple, cottonwood, soft maple, osage orange, basswood, black locust, European larch and other coniferous trees, and all other forest trees introduced into the state for experimental purposes, shall be considered forest trees within the meaning of this chapter. In forest reservations which are artificial groves, the willows, box elder, and other poplars shall be included among forest trees for the purposes of this chapter when they are used as protecting borders not exceeding two rows in width around a forest reservation, or when they are used as nurse trees for forest trees in such forest reservation, the number of such nurse trees not to exceed one hundred on each acre; provided that only box elder shall be used as nurse trees.

161.6 Groves. The trees of a forest reservation shall be in groves not less than four rods wide except when the trees are growing or are planted in or along a gully or ditch to control erosion in which case any width will qualify provided the area meets the size requirement of two acres.

161.7 Fruit-tree reservation. A fruit-tree reservation shall contain on each acre, at

least forty apple trees, or seventy other fruit trees, growing under proper care and annually pruned and sprayed. Such reservation may be claimed as such, under this chapter, for a period of eight years after planting.

161.8 Fruit trees. The cultivated varieties of apples, crabs, plums, cherries, peaches, and pears shall be considered fruit trees within the meaning of this chapter.

161.9 Replacing trees. When any tree or trees on a fruit-tree or forest reservation shall be removed or die, the owner or owners of such reservation shall, within one year, plant and care for another fruit or forest trees, in order that the number of such trees may not fall below that required by this chapter.

161.10 Restraint of livestock. Cattle, horses, mules, sheep, goats, and hogs shall not be permitted upon a fruit-tree or forest reservation.

161.11 Penalty. If the owner or owners of a fruit-tree or forest reservation violate any provision of this chapter within the two years preceding the making of an assessment, the assessor shall not list any tract belonging to such owner or owners, as a reservation within the meaning of this chapter, for the ensuing two years.

161.12 Assessor. It shall be the duty of the assessor to secure the facts relative to fruit-tree and forest reservations by taking the sworn statement, or affirmation of the owner or owners making application under this chapter; and to make special report to the county auditor of all reservations made in the county under the provisions of this chapter.

161.13 County auditor. It shall be the duty of the county auditor in every county to keep a record of all forest and fruit-tree reservations within his county; and to make a report of the same to the state conservation commission on or before June 15 of each year.

CHAPTER 306

ESTABLISHMENT, ALTERATION, AND VACATION OF HIGHWAYS

306.1 Classification of highways.

306.2 Definition of road systems.

306.3 Jurisdiction—control.

306.1 Classification of highways. The highways of the state are hereby classified into four systems, to wit: the primary road system, the institutional road system, the secondary road system, and the state park road system.

The secondary road system is subdivided into farm-to-market roads and local secondary roads.

306.2 Definition of road systems. The following words and phrases when used in this chapter or in any chapter of the Code relating to highways shall respectively have the following meaning:

1. *Primary roads.* The term “primary roads” or “primary road system” shall include those main market roads and highway traffic arteries, outside of cities and towns, which have been designated as primary roads under section 313.2 or which may hereafter be so designated as the law may provide.

2. *Institutional roads.* The term “institutional roads” shall include those highways, either inside or outside of cities and towns, upon or adjacent to land belonging to the state at any state institution.

3. *Secondary roads.* The term “secondary roads” or “secondary road system” shall include all public highways, outside of cities and towns, except primary roads and state park and institutional roads.

4. *Farm-to-market roads.* The term “farm-to-market roads” or “farm-to-market road system” shall include those main secondary roads which have been designated as farm-to-market roads under section 310.10 or which

may hereafter be so designated as the law may provide.

5. *Local secondary roads.* The term “local secondary roads” or “local secondary road system” shall include all those secondary roads which are not now, or may not hereafter be, included in the farm-to-market road system.

6. *State park roads.* The term “state park roads” shall include all those highways and roads, either inside or outside of cities and towns, upon land belonging to the state at any state park.

306.3 Jurisdiction — control. Jurisdiction and control over the highways of the state are hereby vested in and imposed on (1) the state highway commission as to primary roads; (2) the county board of supervisors as to secondary roads within their respective counties; and (3) the board or commission in control of any state park or institution as to any state park or institutional road at such state park or state institution. Provided however, that as to any state park road which is an extension of either a primary or secondary highway which both enters and exits from the state park at separate points, the state highway commission in the case of a primary road, and the county board of supervisors in the case of secondary roads, shall have concurrent jurisdiction with the state conservation commission over such roads, and the state highway commission in the case of a primary road and the board of supervisors in the case of a secondary road, may expend the moneys available for such roads in the same manner as they expend such funds on other roads over which they exercise jurisdiction and control. The parties exercising concurrent jurisdiction shall enter into agreements with each other as to the kind and type of construction or maintenance and the division of cost thereof, but in the absence of such agreement the jurisdiction and control of said road shall remain under the conservation commission.

CHAPTER 308

PARK AND INSTITUTIONAL ROADS

- 308.1 Separate districts.
- 308.2 Repealed by 54th Ga, ch 103, sec. 22.
- 308.3 Supervisor.
- 308.4 Maintenance and improvement.
- 308.5 Improvement by city or county.

308.1 Separate districts. Highways on lands of the state and highways on which such lands abut shall constitute a separate road district for each state institution, in connection with which such lands are used, and shall be under the jurisdiction of the board in control thereof.

308.2 Repealed by 54GA, ch 103, sec. 22.
See sec. 306.4.

308.3 Supervisor. The chief engineer of the state highway commission shall be ex officio general supervisor of said several road districts, and be under the direction of the board in control thereof, and shall have general charge of the maintenance and improvement of said roads, and perform such other duties and make such reports in reference thereto as may be required by said board. Said board may appoint a local supervisor for each district.

308.4 Maintenance and improvement. The roads, bridges, and culverts within or adjacent to any such district and roads included in the state park system as defined in section 306.2 shall be maintained, repaired, and improved under the direction of the board which is in control of said lands, provided said board shall not pave or hard surface such roads unless authorized so to do by the executive council. The costs shall be paid only after certificate of detailed amount due shall have been filed by the said board with the state comptroller, and duly audited as provided by law. This section shall not be construed as preventing the paving or hard surfacing of

any such roads under any other proceeding authorized by law.

308.5 Improvement by city or county. When a city, town, or county shall drain, oil pave, or hard surface a road which extends through or abuts on lands owned by the state, the state, through the executive council, shall pay such portion of the cost of making said improvement through or along such lands as would be legally assessable against said lands were said lands privately owned, which amount shall be determined by said council, or board. When payments are to be made by the state executive council they shall be from any funds of the state not otherwise appropriated.

RELATED STATUTES

Chapter 71, of the Code—Laws pertaining to Nepotism.

Chapter 113, of the Code—Laws pertaining to fences.

Chapter 135, of the Code as amended by Chapter 95, Acts of 56th G.A.—Stream and Lake Pollution.

Chapter 150, Acts of 56th G.A.—Roadside Parks.

Chapter 246, of the Code as amended by Chapter 124, Acts of 56th G.A.—Prison Labor in State Parks.

Chapter 249, Acts of 51st G.A.—Pertaining to title of Mississippi River abutting certain cities.

Chapter 372, of the Code—Laws pertaining to River-Front Improvement Commission (Applicable to all cities).

Chapter 455, of the Code—Laws pertaining to Levee and Drainage Districts.

Chapter 455A, of the Code—Laws pertaining to Iowa Natural Resources Council.

Chapter 469, of the Code—Laws pertaining to milldams and races.

716.11—Shooting or throwing at train.

714.25—Hunting upon cultivated or inclosed land.

714.27—Prosecution.

742.1—Resistance.

TRESPASS

714.25 Hunting or fishing upon cultivated or inclosed land and waters. Any person who shall hunt with dog or gun upon the cultivated or inclosed lands of another, or who shall fish upon the inclosed or cultivated lands containing or encompassing an artificially constructed ponds or ponds of another which have been privately stocked with fish, without first obtaining permission from the owner or occupant thereof, or his agent, shall for each offense be fined not more than ten dollars and costs of prosecution, and shall stand committed until such fine and costs are paid.

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NOTICE

The State Conservation Commission may, by Administrative Order, on certain species and within certain limits extend, shorten, open or close seasons and/or change catch, bag, size and/or possession limits after biological investigations show changes necessary.

The information contained in the tables on pages 62, 70 and 72 is superceded by current regulations. See Section 109.39.

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