

Sec. 16. NEW SECTION. 809.14 NONFORFEITABLE INTERESTS — PURCHASE OF FORFEITED INTERESTS.

1. Property shall not be forfeited under this chapter to the extent of the interest of an owner, other than a joint tenant, who had no part in the commission of the crime and who had no knowledge of the criminal use or intended use of the property. However, if it is established that the owner permitted the use of the property under circumstances in which a reasonable person should have inquired into the intended use of the property and that the owner failed to do so, there is a rebuttable presumption that the owner knew that the property was intended to be used in the commission of a crime.

2. Upon receipt of forfeited property the attorney general shall permit any owner or lienholder of record having a nonforfeitable property interest in the property the opportunity to purchase the property interest forfeited. If the owner or lienholder does not exercise the option under this subsection within thirty days the option is terminated, unless the time for exercising the option is extended by the attorney general.

3. A person having a valid, recorded lien or property interest in forfeited property, which has not been repurchased pursuant to subsection 2, shall either be reimbursed to the extent of the nonforfeitable interest or to the extent that the sale of the item produces sufficient revenue to do so, whichever amount is less. The sale of forfeited property should be conducted in a manner which is commercially reasonable and calculated to provide a sufficient return to cover the costs of the sale and reimburse any nonforfeitable interest. The validity of a lien or property interest is determined as of the date upon which property becomes forfeitable.

4. This section does not preclude a civil suit by an owner of an interest in forfeited property against the party who, by criminal use, caused the property to become forfeited to the state.

Sec. 17. NEW SECTION. 809.15 COMBINING PROCEEDINGS.

In cases involving seized property and forfeitable property, the court may order that the proceedings be combined for purposes of this chapter.

Sec. 18. NEW SECTION. 809.16 RULEMAKING.

The attorney general may adopt, amend, or repeal rules pursuant to chapter 17A to carry out the provisions of this chapter.

Sec. 19. Chapters 127 and 809A, Code 1985 and Code Supplement 1985, and sections 204.505 and 204A.6, Code 1985, are repealed.

Approved April 28, 1986

CHAPTER 1141
COMMERCIAL FISHING
H.F. 2463

AN ACT relating to commercial fishing and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 109B.1 AUTHORITY OF THE COMMISSION.

The state conservation commission shall observe, administer, and enforce this chapter. The state conservation commission may adopt and enforce rules under chapter 17A as necessary to carry out this chapter.

The state conservation commission may:

1. Remove or cause to be removed from the waters of the state any aquatic species that in the judgment of the commission is an underused renewable resource or has a detrimental

effect on other aquatic populations. All proceeds from a sale of these aquatic organisms shall be credited to the state fish and game protection fund.

2. Issue to any person a permit or license authorizing that person to take, possess, and sell underused, undesirable, or injurious aquatic organisms from the waters of the state. The person receiving a permit or license shall comply with the applicable provisions of this chapter.

3. Authorize the director to enter into written contracts for the removal of underused, undesirable, or injurious organisms from the waters of the state. The contracts shall specify all terms and conditions desired. Sections 109.115, 109B.4, 109B.6, and 109B.14 do not apply to these contracts.

4. Prohibit, restrict, or regulate commercial fishing, commercial turtle fishing, and commercial mussel fishing in any waters of the state.

5. Revoke the license of a licensee and the licensee's designated operators for up to one year if the licensee or any designated operator has been convicted of a violation of chapter 109, 109B, or 110.

6. Regulate the numbers of commercial fishers, commercial turtle fishers, and commercial mussel fishers and the amount, type, seasonal use, mesh size, construction and design, manner of use, and other criteria relating to the use of commercial gear for any body of water or part thereof.

7. Establish catch quotas, seasons, size limits, and other regulations for any species of commercial fish, turtles, or mussels for any body of water or part thereof.

8. Designate by listing species as commercial fish, turtles, or mussels.

9. Designate any body of water or its part as protected habitat and restrict, prohibit, or otherwise regulate the taking of commercial fish, turtles, and mussels in protected habitat areas.

Employees of the commission may lift and inspect any commercial gear at any time when being used and may inspect commercial catches, commercial markets, and landings, and examine catch records of commercial fishers, commercial turtle fishers, and commercial mussel fishers upon demand.

Officers of the commission may seize and retain as evidence any illegal fish, turtles, or mussels, or any illegal commercial gear, or any other personal property used in violation of any provision of the Code, and may confiscate any untagged or illegal commercial gear as contraband.

Sec. 2. NEW SECTION. 109B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Boundary waters" means the waters of the Mississippi, Missouri, and Big Sioux rivers.

2. "Commercial fisher" means a person who is licensed to take and sell fish from waters of the state.

3. "Commercial fishing" means taking, attempting to take, or transporting of fish for the purpose of selling, bartering, exchanging, offering, or exposing for sale.

4. "Commercial gear" means the capturing equipment used by commercial fishers, commercial turtle fishers, and commercial mussel fishers.

5. "Commercial mussel fisher" means a person who is licensed to take and sell freshwater mussels from waters of the state.

6. "Commercial mussel fishing" means taking, attempting to take, or transporting of freshwater mussels for the purpose of selling, bartering, exchanging, offering, or exposing for sale.

7. "Commercial species" means species of fish, turtles, and freshwater mussels which may be lawfully taken and sold by commercial fishers, commercial turtle fishers, and commercial mussel fishers, as established by rule by the commission.

8. "Commercial turtle fisher" means a person who is licensed to take and sell turtles from the waters of the state.

9. "Commercial turtle fishing" means taking, attempting to take, or transporting of turtles for the purpose of selling, bartering, exchanging, offering, or exposing for sale.

10. "Constant attendance" means the presence of a commercial fisher or a designated operator whenever commercial gear is in use.

11. "Director" means the director of the Iowa state conservation commission, and the director's duly authorized assistants, deputies, or agents.

12. "Game fish" means all species and size categories of fish not included as "commercial species" or minnows.

13. "Inland waters of the state" means all public waters of the state excluding the boundary waters of the Mississippi, Big Sioux, and Missouri rivers.

14. "Licensed commercial gear" means any commercial gear that is licensed as provided in this chapter and that, when in use, has attached the proper tags as provided by this chapter.

15. "Nonresident or alien" means a person who does not qualify as a resident of the state of Iowa either because of a bona fide residence in another state or because of citizenship of a country other than the United States. However, "alien" does not include a person who has applied for naturalization papers.

16. "Resident" means a person who is legally subject to motor vehicle registration and driver's license laws of this state, or who is qualified to vote in an election of this state.

17. "Waters of the state" means all of the waters under the jurisdiction of the state.

Sec. 3. NEW SECTION. 109B.3 COMMERCIAL FISHING — WHERE PERMITTED.

It is unlawful to use commercial gear in the taking of commercial fish, turtles, and mussels from the waters of the state, except as otherwise provided by statute or administrative rules of the commission.

Sec. 4. NEW SECTION. 109B.4 COMMERCIAL LICENSES AND GEAR TAGS.

1. A person shall not use or operate commercial gear without possessing an appropriate valid commercial license, or a designated operator's license. A license is valid from the date of issue to January 10 of the succeeding calendar year for which it was issued.

2. It is lawful for a commercial fisher to designate a person as a designated operator to lift and to fish with any or all licensed commercial fishing gear owned by the commercial fisher. The commercial fisher shall submit the names and addresses of the persons to be designated as designated operators when applying for a commercial fishing license. A commercial fisher shall not have more than five designated operators. A designated operator shall not lift or fish any commercial fishing gear without having first procured a designated operator's license.

3. A boundary water annual sport trotline license permits the licensee to use a maximum of four trotlines with two hundred hooks in the aggregate. All boundary water sport trotlines shall be tagged with the name and address of the licensee on a metal tag affixed above the waterline.

4. Commercial fishers and turtle fishers shall purchase gear tags from the commission to be affixed to each piece of gear in use. Notwithstanding the fee rates for gear tags of subsection 7, the minimum fee for a gear tag is five dollars. All tags are valid for ten years from the date of issue. In addition to the gear tags, all gear shall be tagged with a metal tag showing the name and address of the licensee and whether the gear is fish or turtle gear.

5. All numbered fish gear tags are interchangeable among the different types of commercial fishing gear.

6. Annual license fees are as follows:

a. Commercial fishing, resident	\$200.00
b. Commercial fishing, nonresident	400.00
c. Designated operator, resident	50.00

d. Designated operator, nonresident	100.00
e. Commercial turtle, resident	50.00
f. Commercial turtle, nonresident	100.00
g. Commercial mussel, resident	30.00
h. Commercial mussel, nonresident	400.00
i. Commercial mussel buyer, resident	300.00
j. Commercial mussel buyer, nonresident	2,500.00
k. Boundary water sport trotline, resident	10.00
l. Boundary water sport trotline, nonresident	20.00
7. Commercial fish gear tags are required on the following units of commercial fishing gear at the listed fee:	
a. Seine, resident, one gear tag for each 100 feet or fraction thereof	\$1.00
b. Seine, nonresident, one gear tag for each 100 feet or fraction thereof	2.00
c. Trammel net, resident, one gear tag for each 100 feet or fraction thereof	1.00
d. Trammel net, nonresident, one gear tag for each 100 feet or fraction thereof	2.00
e. Gill net, resident, one gear tag for each 100 feet or fraction thereof	1.00
f. Gill net, nonresident, one gear tag for each 100 feet or fraction thereof	2.00
g. Entrapment nets, resident, one gear tag per net	1.00
h. Entrapment nets, nonresident, one gear tag per net	2.00
i. Commercial trotline, resident, one gear tag for each 50 hooks or less	1.00
j. Commercial trotline, nonresident, one gear tag for each 50 hooks or less	2.00
8. Turtle trap gear tags are not interchangeable with other commercial gear. Turtle trap gear tag fees are as follows:	
a. Commercial turtle trap, resident, one gear tag per trap	1.00
b. Commercial turtle trap, nonresident, one gear tag per trap	2.00

Sec. 5. NEW SECTION. 109B.5 COMMERCIAL GEAR.

It is lawful for a person who is legally licensed to commercial fish to use the commercial fishing gear of a design, construction, size, season and all other criteria established by the commission for taking those species of fish and turtles designated by the commission by rule.

Sec. 6. NEW SECTION. 109B.6 TAGGING OF COMMERCIAL GEAR.

1. Each trotline shall have the tags affixed to one end. Each hoop net, slat net, trap net, and turtle trap shall have the appropriate tag affixed to the end nearest the pot. Each gill net and each trammel net shall have the tags affixed to the float line nearest the shore stake, but when fished under ice, the tags shall be affixed to the float line nearest the take-out hole. Each seine shall have the tags affixed to one end.

Sec. 7. NEW SECTION. 109B.7 GEAR ATTENDANCE.

1. The licensee or a designated operator must be present when lifting commercial gear. Commercial gear shall be lifted and emptied of catch as provided by the rules of the commission. Constant attendance by the licensee or a designated operator of seines, trammel nets, and gill nets is required when the gear is fished by driving, drive-seining, seining, floating, or drifting methods. Officers of the commission shall grant a reasonable extension of gear attendance intervals in cases of inclement weather or unsafe conditions.

Sec. 8. NEW SECTION. 109B.8 BAITs.

1. It is lawful for licensed commercial fishers, designated operators, commercial turtle fishers, and licensed sport trotline fishers to pursue, take, possess, and transport any commercial fish or their parts, bait fish, turtles, frogs, salamanders, leeches, crayfish, or any other aquatic invertebrates for bait unless otherwise prohibited by law.

2. It is lawful to use any member of the following families as bait fish in boundary waters: Cyprinidae, the minnows; Catostomidae, the suckers; Umbridae, the mudminnows; Clupeidae, the herrings; Hiodontidae, the mooneyes; Amiidae, the bowfin unless otherwise prohibited by law.

3. It is lawful to use green sunfish, *Lepomis cyanellus*, and orange-spotted sunfish, *Lepomis humilis*, for bait fish.

4. It is lawful to use minnow seines for taking bait in the boundary waters. Minnow seines may not exceed fifty feet in length and eight feet in depth.

Sec. 9. NEW SECTION. 109B.9 UNLAWFUL METHODS.

It is unlawful:

1. To use commercial gear which is not in accordance with this chapter or the rules of the commission.

2. To use commercial gear within nine hundred feet from a navigation dam on the boundary waters.

3. To use commercial gear within three hundred feet from the mouth of a tributary stream emptying into the boundary waters.

4. For a person to lift or to fish licensed commercial gear of another person, except by the licensee and the licensee's designated operators.

5. To employ chemicals, electricity, or explosives into the water for taking fish, turtles, or freshwater mussels except as authorized by the director.

6. To have in one's possession game fish or other fish, turtles, or mussels deemed illegal by other provisions of law while engaged in commercial activities. A fish caught in commercial fishing that is not lawful to possess shall be handled with wet hands and immediately released under water with as little injury as possible.

7. To block or inhibit navigation through channels with commercial fishing gear unless a minimum of three feet of water depth is maintained over float lines of any entanglement gear or leads to trap nets. Gear shall not block over one-half the width of a navigable channel if there is less than three feet of water over the gear.

Sec. 10. NEW SECTION. 109B.10 SALE OF COMMERCIAL FISH.

1. A person possessing a commercial fishing license or designated operator's license may possess and sell any commercial fish, turtles, or freshwater mussels, or their parts, which have been lawfully taken.

2. All intrastate and interstate shipments of commercial fish or turtles must be accompanied by a label which shows the name and address of the seller and the kinds and pounds of the catches being sold. Individuals purchasing fish, turtles, or mussels from a commercial fisher, turtle fisher, or mussel fisher need not possess a license.

Sec. 11. NEW SECTION. 109B.11 TURTLES.

1. A person shall not take, possess, or sell turtles from the waters of the state without an appropriate license.

a. A valid sport fishing license entitles a person to take and possess a maximum of one hundred pounds of live turtles or fifty pounds of dressed turtles. The sale of live or dressed turtles is not permitted with a sport fishing license.

b. A commercial turtle license is required to take and possess more than one hundred pounds of live or fifty pounds of dressed turtles. The holder of a commercial turtle license may sell live or dressed turtles.

c. A commercial fishing license or a designated operator's license entitles fishers to operate any licensed commercial fishing gear for taking, possessing, or selling turtles.

2. It is unlawful to take, possess, or sell any species of turtles except those designated by the commission by rule.

3. The method of taking turtles shall only be by hand, turtle hook, turtle trap, licensed commercial fishing gear, or other means designated by commission rules. Sport fishers may also use hook-and-line in catching turtles.

4. Any unattended fishing gear used to take turtles on a sport fishing license shall have affixed a metal tag provided by the owner bearing the owner's name and address.

Sec. 12. NEW SECTION. 109B.12 FRESHWATER MUSSELS.

1. A person shall not take, possess, or sell freshwater mussels from the waters of the state without an appropriate license.

a. A sport fishing license entitles a person to take and possess a maximum of twenty pounds of mussels or shells daily. The possession limit for each licensee is twenty pounds of live mussels or shells. Sale of mussels or shells is not permitted with a sport fishing license.

b. A commercial mussel license is required to take more than twenty pounds of mussels or shells daily, or possess more than twenty pounds of mussels or shells. The holder of a commercial mussel license may sell mussels or shells.

c. A commercial mussel buyer license is required to buy mussels or shells.

2. A person may take all species of freshwater mussels, or their parts, except where otherwise prohibited by rules of the commission.

3. The method of taking freshwater mussels shall only be by hand, by diving, or by crowfoot bar, a device designed to catch mussels by inserting hooks between the shells, or by other means designated by rules of the commission. A crowfoot bar shall not exceed twenty feet in length and a licensee shall not fish more than three bars.

Sec. 13. NEW SECTION. 109B.13 RECIPROCITY FOR COMMERCIAL FISHING, COMMERCIAL TURTLE FISHING, AND COMMERCIAL MUSSEL FISHING.

1. Reciprocal commercial fishing, commercial turtle fishing, and commercial freshwater mussel fishing privileges are contingent upon a grant of similar privileges by the appropriate state to residents of this state.

2. The commission may negotiate commercial reciprocity agreements with other states.

3. Whenever and so long as the states of Minnesota, Wisconsin, Illinois, or Missouri confer upon the commercial clamming licensees of this state reciprocal rights, privileges and immunities, any commercial clamming license issued by such other state shall entitle the licensee to all the rights, privileges and immunities, in and upon the boundary waters between Illinois and this state and between Wisconsin and this state, enjoyed by the holders of equivalent licenses issued by this state; subject, however, to the duties, responsibilities and liabilities imposed on its own licensees by the laws of this state.

Sec. 14. NEW SECTION. 109B.14 REPORTS REQUIRED.

All commercial fishers, commercial turtle fishers, and commercial mussel fishers shall submit a monthly report supplying all information requested on forms furnished by the commission. Reports must be received by the commission no later than the fifteenth day of the following month.

Sec. 15. NEW SECTION. 109B.15 PENALTIES.

A person who violates a provision of this chapter or a rule issued under this chapter is guilty of a simple misdemeanor.

Sec. 16. NEW SECTION. 110.20 RECIPROCITY.

Licenses for bait dealers or for fishing, hunting, or trapping shall not be issued to residents of states that do not sell similar licenses or certificates to residents of Iowa. However, the licensing of nonresident bait dealers who sell at wholesale to licensed dealers in Iowa for resale is permitted.

Sec. 17. Section 110.1, subsections 5 and 6 and subsection 7, paragraphs a through e, Code 1985, are amended by striking those subsections and paragraphs.

Sec. 18. Section 324.17, subsection 13, Code 1985, is amended to read as follows:

13. A bona fide commercial fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section ~~110.1~~ shall be 109B.4 is entitled to receive a motor fuel or special fuel tax refund under this section.

Sec. 19. Section 422.110, subsection 4, Code 1985, is amended to read as follows:

4. Motor fuel or special fuel used by a bona fide commercial ~~fisherman~~ fisher, licensed and operating under an owner's certificate for commercial fishing gear issued pursuant to section ~~110.1~~ 109B.4.

Sec. 20. Sections 109.17, 109.29, 109.99 through 109.101, 109.105 through 109.118, and 110.2, Code 1985, are repealed.

Sec. 21. Section 4, subsection 6, paragraph "g" through "j" and section 13, subsection 3 of this Act, being deemed of immediate importance, shall take effect from and after the Act's publication in the Muscatine Journal, a newspaper published in Muscatine, Iowa and in the North Iowa Times, a newspaper published in McGregor, Iowa.

Approved April 28, 1986

I hereby certify that the foregoing Act, House File 2463, was published in the Muscatine Journal, Muscatine, Iowa, on May 5, 1986, and in the North Iowa Times, McGregor, Iowa, on May 7, 1986.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1142

FARM TOURISM INFORMATION COLLECTION

H.F. 166

AN ACT requiring the Iowa development commission to collect information regarding farm tourism.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 28.7, Code Supplement 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Collect, assemble, and publish a list of farmers who have agreed to host overnight guests, for purposes of promoting agriculture in the state and farm tourism, to the extent that funds are available.

Approved April 28, 1986

CHAPTER 1143

NAVIGATION BY DIVER'S FLAG

H.F. 2078

AN ACT relating to navigation near a diving flag and subjecting violators to a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 106.12, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 11. A person shall not operate a vessel within fifty feet of a diver's flag placed in accordance with the rules of the commission adopted under chapter 17A.

Approved April 28, 1986