

3. The superintendent may order an emergency suspension of a licensee's license pursuant to section 17A.18A. A written order containing the facts or conduct which warrants the emergency action shall be timely sent to the licensee by restricted certified mail. Upon issuance of the suspension order, the licensee must also be notified of the right to an evidentiary hearing. A suspension proceeding shall be promptly instituted and determined.

4. Except as provided in this section, a license shall not be revoked or suspended except after notice and a hearing thereon in accordance with chapter 17A.

5. A licensee may surrender a license by delivering to the superintendent written notice of surrender, but a surrender does not affect the licensee's civil or criminal liability for acts committed before the surrender.

6. A suspension, revocation, relinquishment, or expiration of a license shall not invalidate, impair, or affect the legality of obligations of any preexisting contracts, or prevent the enforcement or collection thereof.

7. Judicial review of the actions of the superintendent may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A.

Sec. 35. Section 536A.23, subsection 1, Code 2007, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Obtain or arrange a residential mortgage loan for a potential borrower from a third person, unless the industrial loan company also has a mortgage broker license and complies with all provisions of chapter 535B.

Sec. 36. Section 558.70, subsection 4, Code Supplement 2007, is amended to read as follows:

4. This section applies to a contract seller who entered into four or more residential real estate contracts in the three hundred sixty-five days previous to the contract seller signing the contract disclosure statement. For purposes of this subsection, two or more entities sharing a common owner or manager are considered a single contract seller. This section does not apply to a person or organization listed in section 535B.2, subsections 1 through 7 6.

Approved May 10, 2008

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## CHAPTER 1161

### NATURAL RESOURCES REGULATION — MISCELLANEOUS PROVISIONS

*H.F. 2612*

**AN ACT** relating to natural resources, including by providing for the powers and duties of the department's director and natural resource commission, and the regulation of public lands, waters, and outdoor recreation, providing for fees, providing for penalties and making penalties applicable and providing an effective date.

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

#### DIVISION I COUNTY RESOURCE ENHANCEMENT COMMITTEE

Section 1. Section 455A.20, subsection 1, paragraphs a and b, Code 2007, are amended to read as follows:

a. The chairpersons of the board of supervisors, county conservation board, commissioners

of the soil and water district, and board of directors of each school district in the county. A chairperson may appoint a ~~member of the chairperson's board or commission as the chairperson's designee~~ to serve on the committee. The chairperson or designee of a school district shall be a member of the county committee of the county in which a majority or the largest plurality of the district's students reside.

b. The mayor or the mayor's designee of each city in a county. ~~The mayor's designee shall be a member of the city council.~~ If a city is located in more than one county, the membership shall be on the county committee of the county in which the largest population of the city resides.

Sec. 2. Section 455A.20, subsection 1, paragraph e, Code 2007, is amended to read as follows:

e. (1) A representative of each of the following entities:

(a) A historic preservation commission or similar entity established by a county or city in the county.

(b) A private organization that provides recognition and protection for the historic buildings, structures, sites, and districts in a county or a city in the county.

(c) A historic museum or organization that maintains a collection of documents relating to the history of a county or a city in the county.

(2) A representative shall be appointed by the county's board of supervisors. If the board appoints a person representing an entity established by a city in the county, the board shall consult with the city authority that established the entity.

e. f. If a question arises as to whether a recognized county organization exists under paragraph "c" or "d", the question shall be decided by a majority vote of the members selected under paragraphs "a" and "b", excluding the representative of the county conservation board. Sections 69.16 and 69.16A do not apply to appointments made pursuant to this subsection.

DIVISION II  
OPERATION OF ALL-TERRAIN  
VEHICLES AND  
RIDING AREAS AND TRAILS FOR ALL-TERRAIN VEHICLES

Sec. 3. Section 321I.2, Code 2007, is amended by adding the following new subsection:  
NEW SUBSECTION. 9. The operation or maintenance of designated riding areas and designated riding trails.

Sec. 4. Section 321I.14, subsection 3, Code Supplement 2007, is amended to read as follows:

3. a. A person shall not operate an all-terrain vehicle with more persons on the vehicle than it was designed to carry.

b. Paragraph "a" does not apply to a person who operates an all-terrain vehicle as part of a farm operation as defined in section 352.2.

Sec. 5. NEW SECTION. 321I.15A CIVIL PENALTY AND RESTITUTION.

Upon conviction for a violation of section 321I.14, subsection 1, paragraph "e", "f", or "g", the defendant, in addition to any other penalty including the criminal penalty provided in section 321I.15, shall be subject to civil remedies as follows:

1. a. The court may assess the defendant a civil penalty of two hundred fifty dollars. The civil penalty shall be deposited in the special all-terrain vehicle fund created pursuant to section 321I.8.

b. The court may order the defendant to pay restitution to the titleholder of land for damages caused by the defendant's violation, to the extent that the titleholder consents to joining the action, and the titleholder's damages are established at trial. If the titleholder is the state, the amount of restitution ordered to be paid by the court shall be deposited in the special all-terrain

vehicle fund created pursuant to section 3211.8. If the titleholder is a governmental entity other than the state, the moneys shall be paid to the governmental entity for deposit in any fund or account from which moneys are used for the maintenance, repair, or improvement of the land where the damage occurred.

2. The attorney general or a county attorney who prosecutes the criminal violation shall execute the civil judgment, in cooperation with the commission, as any other civil judgment.

### DIVISION III

#### CONSTRUCTION ON STATE-OWNED OR STATE-MANAGED LAND OR WATERS

Sec. 6. Section 461A.4, Code 2007, is amended to read as follows:

461A.4 CONSTRUCTION PERMIT—RULES—OF STRUCTURES AND OPERATION OF COMMERCIAL CONCESSIONS.

1. ~~a.~~ A person, ~~association, or corporation~~ shall not ~~build or erect any~~ construct a structure including but not limited to a pier, wharf, sluice, piling, wall, fence, obstruction, erection, or building, or erection of any kind upon or over any state-owned or state-managed land or water under the jurisdiction of the commission, without first obtaining from the commission a written permit. A permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the environmental protection commission of the department. A person shall not construct or maintain ~~or erect any a~~ structure beyond the line of private ownership along or upon the shores of state-owned or state-managed waters in a manner 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.

~~b.~~ ~~It shall be the duty of the~~ The commission to ~~shall~~ adopt and enforce rules governing and regulating the ~~building or erection~~ construction of any such pier, wharf, sluice, piling, wall, fence, obstruction, ~~building or erection of any kind, and said a structure as provided in this subsection.~~ The commission may prohibit, or restrict its construction, or order the ~~removal thereof~~ owner to remove the structure, when in the judgment of said commission determines that it will be for is in the best interest of the public. The commission shall comply with the provisions of chapter 17A when issuing an order under this section.

~~Any person, firm, association, or corporation violating any of the provisions of this section or any rule adopted by the commission under the authority of this section shall be guilty of a simple misdemeanor.~~

2. A person, ~~association, or corporation~~ shall not operate a commercial concession in a park, forest, fish and wildlife area, or recreation area under the jurisdiction of the department without first entering into a written contract with the department. The contract shall state the consideration and other terms under which the concession may be operated. The department may cancel or, in an emergency, suspend a concession contract for the protection of the public health, safety, morals, or welfare.

Sec. 7. NEW SECTION. 461A.5A INJUNCTIVE RELIEF.

If it appears to the department that a person is violating or about to violate a provision of section 461A.4 or refuses to comply with an order issued by the commission pursuant to section 461A.4, the department may refer the matter to the attorney general, who may bring an action in the district court in any county of the state for an injunction to restrain the person from committing the violation. Upon a proper showing, the court may order a permanent or temporary injunction. The state shall not be required to post a bond.

Sec. 8. NEW SECTION. 461A.5B PENALTIES.

1. Except as provided in subsection 2, a person who violates a provision of section 461A.4 or of a departmental rule or refuses to comply with an order issued by the commission pursuant to section 461A.4 is guilty of a simple misdemeanor.

2. The state may proceed against a person who violates a provision of section 461A.4 or refuses to comply with an order issued by the commission pursuant to section 461A.4 by initiat-

ing an alternative civil enforcement action in lieu of a criminal prosecution. The amount of the civil penalty shall not exceed five thousand dollars. Each day of a violation shall be considered a separate offense. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A if the amount of the civil penalty is not more than ten thousand dollars or as a civil judicial proceeding by the attorney general upon referral by the department. In a contested case proceeding, the department may impose, assess, and collect the civil penalty.

Sec. 9. Section 461A.6, Code 2007, is amended to read as follows:  
461A.6 COSTS — LIEN.

The cost of ~~such removal removing a structure as provided in section 461A.4~~ shall be paid by the ~~its~~ owner of said pier, wharf, sluice, piling, wall, fence, obstruction, erection or building, and the state shall have a lien upon the property ~~removed for such costs for the cost of removal.~~ Said ~~The~~ costs shall be payable at the time of removal and such lien may be enforced and foreclosed, as provided for the foreclosure of security interests in uniform commercial code, chapter 554, article 9, part 6.

Sec. 10. Section 461A.5, Code 2007, is repealed.

#### DIVISION IV WATER SAFETY

Sec. 11. Section 462A.12, Code Supplement 2007, is amended by adding the following new subsection:

NEW SUBSECTION. 15. A person shall not operate a vessel on the waters of this state under the jurisdiction of the commission unless every person on board the vessel who is under thirteen years of age is wearing a type I, II, III, or V personal flotation device, including "float coats" that meet this definition, that is approved by the United States coast guard, while the vessel is under way. This subsection does not apply when the person under thirteen years of age is in an enclosed cabin or below deck, or is a passenger on a commercial vessel with a passenger capacity of twenty-five persons or more.

Sec. 12. WARNING CITATIONS — TWELVE-MONTH PERIOD. During the twelve-month period beginning on the effective date of section 462A.12, subsection 15, as enacted in this division of this Act, peace officers shall issue only warning citations for a violation of such subsection.

Sec. 13. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

#### DIVISION V DRIVING OVER ICE

Sec. 14. Section 462A.33, Code 2007, is amended to read as follows:  
462A.33 DRIVING OVER ICE.

1. ~~A person operating a craft or vehicle operating propelled by sail or by machinery in whole or in part shall not operate the craft or vehicle on the surface of ice on the lakes and streams of this state including but not limited to boundary streams and lakes and propelled by sail or by machinery in whole or in part, except unless the commission issues the person a permit.~~

2. ~~Subsection 1 does not apply to automobiles, motorcycles and, or trucks registered under chapter 321; or snowmobiles registered under chapter 321G; or all-terrain vehicles, off-road motorcycles, or off-road utility vehicles registered under 321I,<sup>1</sup> when they any of those vehicles are used without endangering public safety, shall not be operated without a permit issued by the commission for the operation. A permit may be revoked by the commission if the craft or vehicle is operated in a careless manner which endangers others.~~

<sup>1</sup> According to enrolled Act; the phrase "chapter 321I," probably intended

3. Except when authorized by a permit for a special event, persons shall not operate automobiles, motorcycles, and trucks when used, all-terrain vehicles, off-road motorcycles, or off-road utility vehicles on the ice of waters under the jurisdiction of the commission shall not exceed fifteen miles per hour and shall be operated in a at a rate of speed greater than is reasonable and prudent manner or proper under all existing circumstances.

4. A permit issued by the commission pursuant to this section may be suspended or revoked by the commission if a craft or vehicle is operated in a careless manner which endangers others.

#### DIVISION VI REPORTING HUNTING INCIDENTS

Sec. 15. Section 481A.18, Code 2007, is amended to read as follows:

481A.18 HUNTING ACCIDENTS ~~INCIDENTS~~ — MANDATORY REPORTING.

A This section applies to a person who is involved in a hunting accident incident with a firearm and the accident or a fall from a device that allows or assists a person to hunt from an elevated location, if the hunting incident results in an injury to a person, or property damage exceeding one hundred dollars,. ~~The person shall report the accident hunting incident to the sheriff's office in the county where the accident hunting incident occurred or to the department within twelve hours after the accident hunting incident occurred. If~~ However, if an injury is caused by the accident hunting incident prevents timely reporting, the person shall make the report shall be made as soon as practicable. Failure ~~A person who fails to report the hunting incident as required in this section is guilty of a simple misdemeanor.~~

#### DIVISION VII RECIPROCITY

Sec. 16. Section 481A.19, Code 2007, is amended to read as follows:

481A.19 RECIPROCITY OF STATES.

1. a. Any person licensed by the authorities authority of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, and or South Dakota to take fish, game, mussels, or fur-bearing animals from or in the waters forming the boundary between such states state and Iowa, may take them such fish, game, mussels, or fur-bearing animals from that portion of said waters lying within the territorial jurisdiction of this state, without having procured a license therefor for it from the 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.

b. Any person licensed by the authority of Illinois, Minnesota, Missouri, Wisconsin, Nebraska, or South Dakota to take fish, game, mussels, or fur-bearing animals from or in lands under the jurisdiction of any of those states may take such fish, game, mussels, or fur-bearing animals from or in lands under the jurisdiction of the commission when such land is wholly surrounded by that respective state, without having procured a license from the 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.

2. Any privileges conferred by this section shall be subject to a reciprocal agreement as negotiated by the commission and the authority of a state provided in subsection 1 which confers upon a licensee of this state reciprocal rights, privileges, and immunities as provided in section 483A.31.

Sec. 17. Section 483A.31, Code 2007, is amended to read as follows:

483A.31 RECIPROCAL FISHING PRIVILEGES AUTHORIZED.

1. Reciprocal fishing, hunting, or trapping privileges are contingent upon a grant of similar privileges by another state to residents of this state.

2. The commission may negotiate fishing, hunting, or trapping reciprocity agreements with other states.

3. When another state confers upon fishing, hunting, or trapping licensees of this state reciprocal rights, privileges, and immunities, a fishing, hunting, or trapping license issued by that state entitles the licensee to all rights, privileges, and immunities in the public waters or public lands of this state enjoyed by the holders of equivalent licenses issued by this state, subject to duties, responsibilities, and liabilities imposed on its own licensees by the laws of this state.

DIVISION VIII  
SPECIAL HUNTING AND FISHING LICENSES

Sec. 18. Section 483A.24, subsection 13, Code Supplement 2007, is amended to read as follows:

13. Upon payment of the fee of five dollars for a lifetime fishing license or lifetime hunting and fishing combined license, the department shall issue a lifetime fishing license or lifetime hunting and fishing combined license to a resident of Iowa who is a ~~veteran, as defined in section 35.1, or has~~ served in the armed forces of the United States for a ~~minimum aggregate of ninety days of~~ on active federal service and who was disabled or was a prisoner of war during that veteran's military service. The department shall prepare an application to be used by a person requesting a lifetime fishing license or lifetime hunting and fishing combined license under this subsection. The department of veterans affairs shall assist the department in verifying the status or claims of applicants under this subsection. As used in this subsection, "disabled" means entitled to ~~compensation~~ a service connected rating under the United States Code, Title 38, ch. 11.

DIVISION IX  
HUNTER EDUCATION TRAINING

Sec. 19. Section 483A.27, subsections 1, 3, 6, and 11, Code Supplement 2007, are amended to read as follows:

1. A person born after January 1, 1972, shall not obtain a hunting license unless the person has satisfactorily completed a hunter safety and ethics education course approved by the commission. A person who is eleven years of age or more may enroll in an approved hunter safety and ethics education course, but a person who is eleven years of age and who has successfully completed the course shall be issued a certificate of completion which becomes valid on the person's twelfth birthday. A certificate of completion from an approved hunter safety and ethics education course issued in this state ~~since 1960, or a certificate issued by another state, or by a foreign nation, country, or province that meets the standards adopted by the international hunter education association~~ is valid for the requirements of this section.

3. The department shall provide a manual ~~on~~ regarding hunter safety and ethics education which shall be used by all instructors and persons receiving hunter safety and ethics education training in this state. The department may produce the manual in a print or electronic format accessible from a computer, including from a data storage device or the department's internet site.

6. A public or private school accredited pursuant to section 256.11 or an organization approved by the department may ~~co-operate~~ cooperate with the department in providing a course in hunter safety and ethics education or shooting sports activities as provided in this section.

11. ~~A hunter safety and ethics~~ An instructor certified by the department shall be allowed to conduct an a departmental approved hunter safety and ethics education course or shooting sports activities course on public school property with the approval of a majority of the board of directors of the school district. ~~The conduct of~~ Conducting an approved hunter safety and ethics education course or shooting sports activities course is not a violation of any public poli-

cy, rule, regulation, resolution, or ordinance which prohibits the possession, display, or use of a firearm, bow and arrow, or other hunting weapon on public school property or other public property in this state.

DIVISION X  
USE OF LASER SIGHTS BY BLIND HUNTERS

Sec. 20. Section 481A.93, subsection 2, Code 2007, is amended to read as follows:

2. This section does not apply to ~~deer~~ any of the following:

a. Deer being taken by or under the control of a local governmental body within its corporate limits pursuant to an approved special deer population control plan.

b. A person who is totally blind using a laser sight on a bow or gun while hunting, if all of the following apply:

(1) The person's total blindness is supported by medical evidence produced by an eye care professional who is an ophthalmologist, optometrist, or medical doctor. The eye care professional must certify that the person has no vision or light perception in either eye. The certification must be carried on the person of the totally blind person and made available for inspection by the department.

(2) The totally blind person is accompanied and aided by a person who is at least eighteen years of age and whose vision is not seriously impaired. The accompanying person must have a hunting license and pay the wildlife habitat fee as provided in section 483A.1 if applicable. During the hunt, the accompanying adult must be within arm's reach of the totally blind person, and must be able to identify the target and the location of the laser sight beam on the target. A person other than the totally blind person shall not shoot the laser sight-equipped gun or bow.

DIVISION XI  
TRESPASSING WHILE HUNTING

Sec. 21. Section 716.8, subsection 5, Code Supplement 2007, is amended to read as follows:

5. A person who commits a trespass ~~as defined in section 716.7, subsection 2, paragraph "a", and takes a while hunting~~ deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, commits a simple misdemeanor. The person shall also be subject to civil penalties as provided in sections 481A.130 and 481A.131. A deer taken by a person while committing such a trespass shall be subject to seizure as provided in section 481A.12.

DIVISION XII  
CITATION IN LIEU OF ARREST

Sec. 22. Section 805.8B, subsection 5, Code Supplement 2007, is amended to read as follows:

5. AQUATIC INVASIVE SPECIES VIOLATIONS. For violations of section 456A.37, subsection 5, the scheduled fine is ~~one~~ five hundred dollars.

Approved May 10, 2008