

28.035 History: 1949 c. 126; Stats. 1949 s. 28.035; 1967 c. 26 s. 94; 1969 c. 276.

28.04 History: 1949 c. 474; Stats. 1949 s. 28.04; 1953 c. 425; 1969 c. 276 s. 588 (4).

28.05 History: 1949 c. 474; Stats. 1949 s. 28.05; 1951 c. 247; 1953 c. 425; 1965 c. 252; 1969 c. 276 ss. 195, 588 (4).

28.06 History: 1949 c. 474; Stats. 1949 s. 28.06; 1953 c. 425; 1961 c. 265; 1967 c. 26 s. 94; 1969 c. 276 ss. 196, 588 (4).

Employment of seasonal labor by the forestry division of the conservation department is subject to the provisions of ch. 16, the workmen's compensation act and the unemployment compensation act. The prevailing wage is to be determined by the director of personnel. 39 Atty. Gen. 351.

28.07 History: 1949 c. 474; Stats. 1949 s. 28.07; 1969 c. 276 s. 588 (4).

28.08 History: 1949 c. 474; Stats. 1949 s. 28.08.

28.10 History: 1947 c. 109; Stats. 1947 s. 59.98 (1); 1949 c. 474; Stats. 1949 s. 28.10; 1963 c. 345.

On powers of county boards see notes to sec. 22, art. IV.

Lands however acquired by a county may be placed in a forest reserve by proper procedure. 20 Atty. Gen. 891.

A county does not have authority to acquire land unconnected with its county forests as a facility for marketing timber from such forests. 37 Atty. Gen. 156.

28.11 History: 1947 c. 109; Stats. 1947 s. 59.98 (2); 1949 c. 474; Stats. 1949 s. 28.11; 1961 c. 378; 1963 c. 345, 459; 1965 c. 433 s. 121; 1967 c. 26 s. 94; 1967 c. 29 s. 4; 1967 c. 92 s. 22; 1967 c. 212; 1967 c. 291 s. 14; 1969 c. 55; 1969 c. 276 ss. 197, 588 (4).

Moneys appropriated to a county for the purchase, development, preservation and maintenance of forest reserves may be expended for the purposes enumerated. 24 Atty. Gen. 689.

Forest crop money received by a county may be expended by the county in surfacing a fire trail through county forest reserve lands which have been withdrawn from forest crop lands. 27 Atty. Gen. 93.

This section does not authorize counties to acquire lands by exchange for any other purpose than blocking out county forests. 40 Atty. Gen. 57.

The county treasurer may be employed to serve as secretary to the forestry committee and may be paid extra compensation. 48 Atty. Gen. 217.

A county forestry fund may not be spent to construct a county building designed to be used by the forest caretaker as a combined residence and foster home for delinquent boys who would work in the forest program. 49 Atty. Gen. 39.

28.20 History: 1949 c. 474; Stats. 1949 s. 28.20.

28.21 History: 1949 c. 474; Stats. 1949 s. 28.21; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

28.22 History: 1949 c. 474; Stats. 1949 s. 28.22; 1965 c. 252.

28.23 History: 1949 c. 474; Stats. 1949 s. 28.23.

CHAPTER 29.

Fish and Game.

On exercises of police power see notes to sec. 1, art. I; on searches and seizures see notes to sec. 11, art. I; on taking of private property for public use see notes to sec. 13, art. I; on the state boundary see notes to sec. 1, art. II; on delegation of power see notes to sec. 1, art. IV; on jurisdiction on rivers and lakes see notes to sec. 1, art. IX; on acquisition of lands by the state and subdivisions see notes to sec. 3a, art. XI; on the conservation act see notes to 23.09; on navigable waters and riparian rights see notes to 30.10; and on eminent domain see notes to various sections of ch. 32.

Liability-without-fault criminal statutes—their relation to major developments in contemporary economic and social policy. Remington, Robinson and Zick, 1956 WLR 625.

29.01 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.01; 1919 c. 526 s. 1; 1919 c. 625 s. 1; 1921 c. 141 s. 1; 1921 c. 306; 1927 c. 121; 1935 c. 366; 1951 c. 92; 1953 c. 556; 1967 c. 10, 26; 1969 c. 276.

The fish and game laws apply to all lakes and ponds, if navigable, regardless of their size and the means of access thereto. 5 Atty. Gen. 369.

Waters in the canal connecting Sturgeon Bay with Lake Michigan are inland waters. 20 Atty. Gen. 239.

Bays and harbors of Door County on Green Bay or Lake Michigan are outlying waters within the meaning of 29.01 (4). A question of fact is involved in determining whether a particular body of water is an outlying water or an inland water within 29.01 (4). 28 Atty. Gen. 441.

29.015 History: 1931 c. 201; Stats. 1931 s. 29.345; 1933 c. 159 s. 11; 1943 c. 301; 1953 c. 61 s. 18; Stats. 1953 s. 29.015.

29.02 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.02; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

The state holds title to wild animals in trust for the people, and no individual has any title to any such animal until he reduces it to lawful possession; and as a trustee the state may conserve wild life and regulate or prohibit its taking in any reasonable way it may deem necessary for the public welfare. *Krenz v. Nichols*, 197 W 394, 222 NW 300. See also *State v. Lepinske*, 212 W 421, 249 NW 289; *State v. Herwig*, 17 W (2d) 442, 117 NW (2d) 335; and 57 Atty. Gen. 31.

A trapper who stakes his trap from his boat on the bed of a river cannot be found guilty of stealing muskrats caught in such trap from a riparian owner. 12 Atty. Gen. 54.

Agents of the state conservation commission may enter on private land to rescue fish stranded there by recession of water after a flood. 13 Atty. Gen. 158.

"29.02, Stats., provides that the legal title

to and the custody and protection of all wild animals within the state is in the state for the purpose of regulating the enjoyment, use, disposition and conservation thereof and the unlawful taking possession of any such animals does not change that legal right". 16 Atty. Gen. 472.

29.03 History: 1917 c. 668 s. 3; 1917 c. 676 s. 3; Stats. 1917 s. 29.03; 1935 c. 412, 423; Stats. 1935 s. 29.03, 29.337 (2); 1953 c. 556 s. 21; Stats. 1953 s. 29.03; 1955 c. 272; 1961 c. 218; 1967 c. 26 s. 94; 1967 c. 132; 1969 c. 276 s. 588 (4).

A boat in which a nonresident is fishing without a license in violation of law when the owner is present may be confiscated. 12 Atty. Gen. 398.

29.04 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.04; 1965 c. 252; 1967 c. 26 s. 94; 1969 c. 276 ss. 199, 588 (4).

The conservation commission has authority under 29.04, Stats. 1945, to take over maintenance and operation of existing dams in lands wholly owned by the state. 36 Atty. Gen. 264.

29.05 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.05; 1921 c. 108; 1923 c. 36; 1925 c. 352 s. 3; 1935 c. 335; 1949 c. 631 s. 230; 1955 c. 423, 696 s. 7; 1959 c. 505, 561; 1959 c. 641 s. 5; 1961 c. 384, 621; 1965 c. 200; 1967 c. 26 s. 94; 1967 c. 29 s. 1; 1967 c. 185; 1969 c. 276 ss. 200, 588 (3), (4); 1969 c. 394.

It is not necessary that a complaint made under sec. 1498g, Stats. 1898, should state that it was made on behalf of the state. State v. Nergaard, 124 W 414, 102 NW 899.

29.05 (7), though it makes no provision for notice and a hearing, does not deny due process of law, because secs. 3294 to 3296 and 3312, Stats. 1919, authorize actions to recover forfeitures and to recover property forfeited, and because the owner may replevy the property seized. It was not the intent of 29.05 (7) to subject an innocent owner to the loss of his property because the same has been used in violation of ch. 29 by a thief or a trespasser. A husband so using his wife's automobile without her knowledge or consent is a trespasser. Gemert v. Pooler, 171 W 271, 177 NW 1.

A gun is not a nuisance and cannot be confiscated by a conservation warden unless at or about the time of its seizure it is being used by the owner or possessor in actual and unlawful hunting. Hatton v. Fosnot, 175 W 343, 185 NW 178.

Evidence that a conservation officer heard shots on a lake, late at night, that he saw a light on the lake, that the defendants were apprehended while coming in an automobile from the direction of the lake, and that there was a rifle, a battery, and a spot light in the car, was insufficient to sustain a conviction of unlawfully hunting deer during the close season and hunting in the nighttime with an artificial light. Scott v. State, 190 W 238, 208 NW 795.

The provision in 29.05 (9) that no costs shall be taxed in actions against game wardens is valid. Muska v. Apel, 203 W 389, 232 NW 593.

A conservation warden, having reasonable or probable cause for belief that contents of

an automobile offend against fish and game law, may search it without warrant. State v. Leadbetter, 210 W 327, 246 NW 443.

Facts warranting mere suspicion do not justify a search. Men leaving an unsettled region in hunters' clothes with a Christmas tree and rifle in an automobile did not warrant search. State v. Johnson, 210 W 334, 246 NW 446.

A court will not suppress evidence because of unlawful seizure, in absence of showing that officers who obtained evidence acted outside their province, since it will be presumed that officers acted within their province, although no positive presumption exists of validity of search by officers. State v. Drew, 217 W 216, 257 NW 681.

An innocent holder of conditional sales contract or chattel mortgage covering an interest in motor vehicle confiscated under this section cannot recover such vehicle, or payments due thereon, from the state but is only entitled to recover net proceeds of sale under 29.06 (1). Commercial Credit Co. v. Swenson, 235 W 82, 292 NW 279.

Where, in an action against a game warden for assault and battery in making an arrest, a question in the special verdict asking whether the warden "in the manner he used" a tear-gas gun used unreasonable means to effect the arrest, and the jury's affirmative answer thereto, did not furnish a definite finding as to whether such gun had been fired in the manner claimed by the plaintiff or in the manner claimed by the warden, and this was imperative in view of 29.05 (9) exempting a warden from liability for acts done or permitted by authority of law, and the instructions were defective in regard to the burden of proof on such question, the granting of a new trial was not an abuse of discretion. Schreiner v. Beghin, 260 W 561, 51 NW (2d) 485.

A warrant may be issued to search a house on the Indian reservation for game killed by tribal Indians while off the reservation. 1 Atty. Gen. 296.

In case an individual, violating the game laws, comes into possession of a device, subject to confiscation, with permission or knowledge of the owner, it is subject to confiscation, regardless of the owner's knowledge or intention that it should be employed in violation of law. 9 Atty. Gen. 473.

Setting a trap for mink in close season is an offense; it also constitutes a nuisance; the conservation commission has authority to confiscate the trap. 10 Atty. Gen. 1144.

A conservation warden may enter and inspect unsealed express cars of railroads if he has reason to believe there are wild animals or parts of them taken or held in violation of the fish and game laws. 12 Atty. Gen. 301.

An automobile used for transporting fish illegally caught may be forfeited in a civil action brought under provisions of 288.03 in any county where such automobile was being so used; such action is not dependent upon conviction of illegally catching, taking or transporting fish, and, being civil action, is governed by laws and rules of civil actions; in the case of an automobile held under conditional purchase money contract, both purchaser and seller should be joined in such action. 16 Atty. Gen. 107.

One who has in his possession unlawfully caught fish or game may not be searched without a search warrant unless he has been legally arrested prior to such search. 17 Atty. Gen. 408.

A summer cottage is a dwelling house requiring a search warrant for the purpose of searching it for unlawful game. 18 Atty. Gen. 267.

A conservation warden may seize unlicensed net only when found in actual use for illegal fishing or when he has reason to believe that it is being used for illegal fishing. No search warrant may issue to seize or search for unlicensed net. One who maintains public nuisance by having in his possession and using unlicensed net for fishing purposes may be prosecuted criminally. 18 Atty. Gen. 419.

A search for illegal game may be made on a man's premises other than the house constituting his home without a search warrant. 19 Atty. Gen. 159.

Deputy conservation wardens have authority under this section to arrest with or without warrant as specified in this section. 20 Atty. Gen. 1140.

A conservation warden's power to arrest without warrant is limited to persons detected in actual violations. In all other cases warrants must first be obtained. 23 Atty. Gen. 630.

Under 29.05 (6), Stats. 1935, conservation wardens may board boats on waters of the Great Lakes over which Wisconsin has jurisdiction and search for contraband fish, inspect for illegal fishing gear and make arrests. This does not conflict with federal authority. 25 Atty. Gen. 652.

Searches may be made for game, and Indians may be arrested for violation of game laws on lands owned by them which are not part of an Indian reservation or other land under jurisdiction of the U. S. government. 27 Atty. Gen. 390.

For discussion of the extent of a warden's power of search and seizure under 29.05 (6) and (7), see 27 Atty. Gen. 627.

Game warden's right to search refrigerated lockers is discussed in 28 Atty. Gen. 198.

Where a fishing net of unknown owner constitutes a public nuisance under 29.03 (1), Stats. 1943, it may be seized and destroyed without any court proceeding. Where known owner of illegal fishing net is not prosecuted criminally so as to result in an order for confiscation of net under 29.05 (7), net may be confiscated in forfeiture action commenced pursuant to ch. 288. Acquittal on a charge of fishing with illegal nets is incompatible with proof required for confiscation under 29.05 (7). Where a court under 29.05 (7) orders fishing nets returned to defendant on acquittal of charge of fishing with illegal nets, the conservation commission should comply with such order even though nets may in fact be illegal. 32 Atty. Gen. 285.

Conservation wardens when making arrests with warrants are entitled to the same fees for mileage as constables, to be paid into the conservation warden pension fund pursuant to 23.14 (2), but are entitled to no fees for mileage or reimbursement of traveling expenses as costs in cases where arrests are made without

warrants. Wardens are not entitled to witness fees in cases where it is their duty to prosecute and act as witnesses. 34 Atty. Gen. 9.

A duty to appear for the warden in the trial court would devolve upon the attorney general only where an appropriate request was made by the commission and approved by the governor. The commission has no statutory authority to retain counsel for the warden or to pay any of the expenses of the litigation. 39 Atty. Gen. 560.

29.06 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.06; 1931 c. 351 s. 2; 1939 c. 475; 1951 c. 214; 1963 c. 75, 429; 1965 c. 334; 1967 c. 26 s. 94; 1969 c. 276 ss. 201, 588 (4).

29.07 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.07; 1967 c. 26 s. 94; 1969 c. 276.

The sheriff, deputy sheriff, coroner and other police officers are ex officio deputy conservation wardens; their powers are co-extensive with territorial limits of counties in which they hold office. 20 Atty. Gen. 25.

A deputy sheriff may request hunters to exhibit licenses and may act in capacity of conservation warden although not requested so to act by conservation commission or any of its deputies. 29 Atty. Gen. 33.

29.08 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.08; 1933 c. 242; 1937 c. 366; 1967 c. 26 s. 94; 1969 c. 276 ss. 203, 588 (3), (4).

29.085 History: 1933 c. 242; Stats. 1933 s. 29.085; 1937 c. 366; 1967 c. 26 s. 94; 1969 c. 276 ss. 588 (4), 610.

See note to sec. 1, art. IV, on legislative power generally, citing *LeClair v. Swift*, 76 F Supp. 729.

29.085 and 29.174, Stats. 1937, while delegating to the conservation commission very broad powers in regard to the regulation of hunting and fishing, do not authorize the commission to indulge in price fixing. 28 Atty. Gen. 165.

29.09 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.09; 1919 c. 671 s. 43; 1919 c. 696 s. 1; 1919 c. 703 s. 14; 1927 c. 93, 206, 245; 1931 c. 351 s. 2; 1933 c. 243 s. 1; 1933 c. 370; 1935 c. 213; 1939 c. 182; 1943 c. 343, 434; 1945 c. 49, 189; 1947 c. 168; 1949 c. 532; 1951 c. 108, 558; 1953 c. 464; 1955 c. 473, 542; 1957 c. 50, 310, 557, 659; 1959 c. 121, 285, 554, 561, 577; 1961 c. 389; 1965 c. 170, 208, 244, 245; 1965 c. 433 s. 54; 1965 c. 628; 1967 c. 26 s. 94; 1969 c. 152, 163; 1969 c. 276 ss. 204, 588 (3), (4); 1969 c. 331; 1969 c. 392 ss. 15, 87 (12), (24).

The treaty of Sept. 30, 1854 (10 U. S. Stats. at L. 1109), giving to the Chippewa Indians residing in the territory thereby ceded the right to hunt and fish therein, does not operate to exempt from state laws, governing hunting and fishing, an Indian who, under an act of Feb. 8, 1887 (24 U. S. Stats. at L. 390) has become a citizen of the United States and of this state and who resides outside of the ceded reservation. *State v. Morrin*, 136 W 552, 117 NW 1006.

A Chippewa Indian is subject to the Wisconsin game laws on lands retained by the Indians under a treaty with the United States but which were subsequently patented by the United States to an Indian and thereafter con-

veyed in fee to a citizen of the state. *State v. Johnson*, 212 W 301, 249 NW 284.

In issuing hunting and fishing licenses, collecting the fees therefor and remitting the net amount of such fees to the state, a county clerk was the agent of the state and was in no sense acting for the county. *Trempealeau County v. State*, 260 W 602, 51 NW (2d) 499.

Menominee Indians when hunting on land formerly part of their reservation are subject to state conservation laws. *State v. Sanapaw*, 21 W (2d) 377, 124 NW (2d) 41, cert. denied 377 U. S. 991, rehear. denied 379 U. S. 871.

The Treaty of Wolf River, of 1854, granted exclusive hunting and fishing rights to the Menominee Indians on their reservation free from outside regulation; the Menominee Termination Act of 1954 (25 USC 891-902) did not abrogate or cut off such hunting or fishing rights; the Menominees who are enrolled as members of the tribe on its records, in accordance with the Termination Act of 1954, have the exclusive right to hunt and fish on their reservation free from restriction, regulation, or control by the state of Wisconsin; and even though the supreme court of Wisconsin construed the Termination Act of 1954 to terminate such rights, this does not create liability against the United States. *Menominee Tribe of Indians v. United States*, 388 F (2d) 998, affirmed 391 U. S. 404.

Discrimination against nonresidents in the matter of fees for hunting and fishing licenses is not prohibited by sec. 2, art. IV, U. S. Constitution. 1908 Atty. Gen. 414.

Allotted Indians are subject to the fish and game laws of this state. 1 Atty. Gen. 296.

The conservation commission has no authority to grant a license to fish with a trawler net in Lake Michigan. 8 Atty. Gen. 529.

Indians are subject to the state game laws when hunting off their reservations. 8 Atty. Gen. 811.

A nonresident who hunts without having a nonresident hunting license violates 29.09 (1), Stats. 1925. 14 Atty. Gen. 404.

Although a bounty is given for killing of a wolf in this state, a person who shoots a wolf with a gun without a hunting license may be prosecuted for hunting without a license. 17 Atty. Gen. 168.

Under 29.09, Stats. 1927, the conservation commission has no power to require those who have hunting or fishing licenses to wear buttons while exercising privileges of a license. 18 Atty. Gen. 60.

A nonresident over 16 years of age who fishes in inland waters violates this section, although he has no fish in his possession. 18 Atty. Gen. 367.

A hunting license is void when obtained on application and affidavit of one who, on being charged with carrying a loaded gun in an automobile, entered a plea of *nolo contendere* and was advised that his old license was thereby revoked and his right to a new license taken away for a year. 19 Atty. Gen. 563.

Acts done by Indians in relation to deer, which acts were performed on the reservation by the Indians, come under federal and not state law. 20 Atty. Gen. 982.

If a deer was legally shot by one possessing a license and tag, he may give it to another

who has a license and tag and puts such tag on the deer. However, it is illegal for one to shoot a deer after he has put his tag on another deer and it is also unlawful for another person to put his tag on such illegal deer. 21 Atty. Gen. 1103.

On a journey to and from hunting grounds, where a loaded gun not knocked down is being carried, the question of hunting is of fact for the jury. 27 Atty. Gen. 627.

Indians are not subject to game laws while hunting, fishing or trapping on lands of any reservation, whether they reside there or not. The test of who are "Indians" within the meaning of the statute is discussed. 34 Atty. Gen. 236.

The functions and powers of county clerks and their deputies in respect to the issuance of hunting and fishing licenses are discussed in 1 Atty. Gen. 287, 14 Atty. Gen. 420, 18 Atty. Gen. 24, 22 Atty. Gen. 878, 33 Atty. Gen. 174, and 39 Atty. Gen. 579.

Wisconsin hunting and fishing laws apply in Menominee county and to the Menominee tribe in the same manner and to the same extent as they apply to any other area and person in the state. 51 Atty. Gen. 103; 56 Atty. Gen. 11.

The state has no jurisdiction to apply hunting, fishing, and trapping regulations to Indians residing on non-patented reservation lands and hunting, fishing, or trapping thereon. 56 Atty. Gen. 11.

29.10 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.10; 1921 c. 364 s. 5; 1923 c. 264 s. 2; 1931 c. 351 s. 2; 1931 c. 428; 1939 c. 182; 1943 c. 434; 1945 c. 145; 1951 c. 409; 1953 c. 319, 637; 1957 c. 489; 1961 c. 443; 1967 c. 10; 1969 c. 276 s. 588 (4).

On duties and powers of county clerks in respect to hunting and fishing licenses see notes to 29.09.

Restoration of game food and cover is a proper means of maintaining public hunting and fishing grounds and the costs thereof may be charged against the fund established by this section. 37 Atty. Gen. 619.

29.104 History: 1965 c. 245; Stats. 1965 s. 29.104; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.105 History: 1951 c. 409; Stats. 1951 s. 29.105; 1953 c. 133, 319; 1957 c. 489; 1959 c. 520, 608; 1961 c. 443; 1965 c. 245; 1967 c. 10.

29.107 History: 1957 c. 391; Stats. 1957 s. 29.107; 1959 c. 520, 664; 1961 c. 91, 103.

29.12 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.12; 1935 c. 395; 1937 c. 305; 1939 c. 202; 1941 c. 256; 1951 c. 409; 1953 c. 565; 1959 c. 123, 277; 1963 c. 377; 1965 c. 244; 1967 c. 80; 1969 c. 145.

A nonresident may not obtain both a general hunting license under 29.12 (2), and an archer hunting license under 29.12 (3a), Stats. 1955, since they are both of the same kind or series. 45 Atty. Gen. 298.

29.125 History: 1931 c. 379; Stats. 1931 s. 29.628; 1935 c. 333; 1953 c. 61 s. 19; Stats. 1953 s. 29.125; 1955 c. 172; 1959 c. 547; 1967 c. 26 s. 94; 1967 c. 132; 1969 c. 276 s. 588 (4).

29.13 History: 1917 c. 668 s. 3; Stats. 1917 s.

29.13; 1921 c. 476, 565; 1921 c. 590 s. 109; 1923 c. 264 s. 2; 1925 c. 331; 1935 c. 202, 333; 1937 c. 168; 1949 c. 527; 1953 c. 540; 1957 c. 489; 1967 c. 10; 1967 c. 26 s. 94; 1967 c. 132; 1969 c. 152; 1969 c. 276 s. 588 (4).

A person licensed to conduct a muskrat or skunk farm is not required to procure a license under this section in order to trap muskrats or skunks on such farm. 12 Atty. Gen. 360.

29.134 History: 1931 c. 423; Stats. 1931 s. 29.134; 1947 c. 127; 1951 c. 461; 1967 c. 26 s. 94; 1967 c. 29 s. 2; 1969 c. 276 s. 588 (3), (4); 1969 c. 392 s. 87 (24).

One who has established a place of business in this state, where he carries on the business of buying and trading of furs, may be granted a Class A resident fur dealer's license, although he has no residence in the state. 20 Atty. Gen. 1116.

No license is required by 29.134, Stats. 1943, for those engaged in the business of buying dressed furs for manufacture. 33 Atty. Gen. 46.

29.134 (1) (g) is applicable to the purchaser of raw furs of wild animals from trappers, fur buyers or fur dealers in retail lots for purposes of resale, but does not apply to the purchaser of furs domestically raised and does not involve an improper interference with interstate commerce. A fur association or other agency conducting auction sale of furs as agent for others is not subject to the licensing provisions of this section. 35 Atty. Gen. 53.

The definition of "felony" in 939.60, Stats. 1967, applies to 29.134 (1) insofar as the latter statute provides for imprisonment of not more than one year without designating the place of imprisonment. 57 Atty. Gen. 118.

29.135 History: 1921 c. 376; Stats. 1917 s. 29.135; 1923 c. 251; 1943 c. 349; 1949 c. 253; 1951 c. 442; 1955 c. 206; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

A fisherman who sells only his own catch and packs and ships fish only as incident to fishing is not a "person who deals in fish by operating a wholesale fish market or fish house" under this section, and is not required to have a license to carry on his business. 10 Atty. Gen. 787.

A wholesale grocery which deals in fish is required to secure a license. 20 Atty. Gen. 173.

A wholesale fish dealer licensed under this section may possess more bullheads than are specified in a bag limit set by conservation commission order under 29.39. 24 Atty. Gen. 810.

29.136 History: 1931 c. 127; Stats. 1931 s. 29.136; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.137 History: 1951 c. 460; Stats. 1951 s. 29.137; 1955 c. 221 s. 22; 1957 c. 384, 672; 1961 c. 360; 1967 c. 26 s. 94; 1969 c. 276 ss. 205, 588 (4).

29.14 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.14; 1919 c. 507 s. 2, 3; 1923 c. 264 s. 1, 2; 1925 c. 391 s. 2; 1927 c. 206; 1931 c. 351 s. 2; 1933 c. 243 s. 1; 1939 c. 182; 1943 c. 222; 1947 c. 129; 1949 c. 469, 532; 1951 c. 426, 429;

1953 c. 456; 1955 c. 99; 1957 c. 50, 489; 1963 c. 159; 1965 c. 170, 433; 1967 c. 26 s. 94; 1967 c. 265; 1969 c. 152, 276, 399.

An agent of the conservation commission appointed under 29.14, Stats. 1943, may not appoint a subagent. 34 Atty. Gen. 119.

29.145 History: 1933 c. 243 s. 2; Stats. 1933 s. 29.145; 1939 c. 521; 1947 c. 266; 1949 c. 326, 531, 624, 643; 1951 c. 426; 1957 c. 219, 489; 1961 c. 286, 443, 558; 1963 c. 90, 312; 1965 c. 414; 1967 c. 10; 1967 c. 26 s. 94; 1967 c. 226; 1969 c. 152; 1969 c. 276 s. 588 (4); 1969 c. 399.

A riparian owner who is a resident of this state must secure a rod and reel license to fish on a lake of which he owns the entire shore line. 27 Atty. Gen. 563.

Under 29.145 (2), Stats. 1939, the conservation commission may issue resident fishing licenses through issuing agents of its choice. 29 Atty. Gen. 174.

The conservation commission has no power to establish a system of controlled taking of minnows under a permit from the commission. 39 Atty. Gen. 108.

Fishing licenses may be issued by county clerks, deputy county clerks and agents appointed by the conservation commission. 39 Atty. Gen. 579.

The owner of an artificial lake or pond may take fish therefrom and sell the same without a fishing license. 40 Atty. Gen. 486.

29.146 History: 1967 c. 305; Stats. 1967 s. 29.146; 1969 c. 276 s. 588 (4).

29.147 History: 1937 c. 164; Stats. 1937 s. 29.147; 1943 c. 196; 1947 c. 73; 1949 c. 538; 1953 c. 295; 1957 c. 489; 1961 c. 318; 1965 c. 170; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

29.148 History: 1959 c. 125; Stats. 1959 s. 29.148; 1967 c. 336; 1969 c. 276 s. 588 (4).

29.16 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.16; 1951 c. 430.

29.165 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.22 (3); 1919 c. 696 s. 1; 1919 c. 701 s. 2; 1919 c. 702 s. 22; 1927 c. 206; 1937 c. 335; 1953 c. 556 s. 4; Stats. 1953 s. 29.165; 1957 c. 165; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.17 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.17; 1965 c. 332; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.174 History: 1933 c. 152 s. 2; Stats. 1933 s. 29.174; 1937 c. 366; 1939 c. 234; 1943 c. 375 s. 4; 1949 c. 643; 1951 c. 480; 1955 c. 221 s. 23; 1959 c. 122, 520, 608, 680, 693; 1961 c. 9; 1965 c. 252, 400; 1967 c. 26 s. 94; 1969 c. 276 ss. 207, 588 (4).

A conservation commission order, prohibiting the carrying of a gun more powerful than .22 calibre rifle at any time prior to 5 days before deer hunting seasons, is a valid order and can be questioned only in the manner provided by 29.174 (7) and (8). 27 Atty. Gen. 87.

A town board has no power to prohibit or regulate hunting, this power being vested in the conservation commission under 29.174. 27 Atty. Gen. 705.

29.174 and 29.085, while delegating to the

conservation commission very broad powers in regard to the regulation of hunting and fishing, do not authorize the commission to indulge in price fixing. 28 Atty. Gen. 165.

The state has not ceded to the U. S. government jurisdiction over the Necedah migratory waterfowl refuge under either 1.056 or 1.036 or otherwise. Regulation of hunting and trapping in this area is vested in the conservation commission under 29.174, Stats. 1937. 28 Atty. Gen. 259.

Conservation commission orders issued under 29.174 (5) must be published in the official state paper. It is discretionary with the commission as to what other paper, if any, is also to be used for publication of the order, but such discretion must not be abused and should be honestly exercised in accordance with facts pertaining to each particular order. 30 Atty. Gen. 133.

Exclusive authority to regulate hunting and fishing and to establish open or close season for the entire state or for any county or part of county is vested in the state conservation commission by 29.174 (1) and (2), Stats. 1943, but villages, cities and Milwaukee county, in furthering interests of public peace and safety, may adopt ordinances relating to the use of firearms which have incidental effect or restricting hunting privileges within their boundaries despite open season therein established by conservation commission order. 32 Atty. Gen. 370.

A county board is not authorized to pass ordinances prohibiting use of rifles in a county where the conservation commission has established an open season for hunting deer pursuant to this section. 34 Atty. Gen. 353.

A county board outside of Milwaukee county does not have power to regulate hunting or the discharge of firearms during an open season established by the conservation commission. 36 Atty. Gen. 589.

The conservation commission does not have statutory power to order controlled deer hunting on state-owned forest lands. 38 Atty. Gen. 148.

The governor does not have power to approve in part and reject in part conservation commission orders issued under 29.174 (5), Stats. 1951. The governor's function is to approve the order as a whole or to reject the entire order and return it to the commission for reconsideration. 41 Atty. Gen. 206.

In 23.09 (7) and 29.174 (2) the legislature has delegated power to the conservation commission, in accordance with an expressed standard, to issue rules and regulations which modify statutes concerning the conditions governing the taking of fish and game. 41 Atty. Gen. 254.

The conservation commission has authority to issue an order requiring a report on kill of whitetailed deer. 42 Atty. Gen. 272.

The conservation commission has power to authorize an open season on the Horicon national wildlife refuge, for the taking of game including migratory wild fowl, which will become effective if proper federal regulations are issued; and it may cooperate with the U. S. fish and wildlife service in controlling hunting on federally owned areas. 42 Atty. Gen. 274.

The conservation commission and the nat-

ural resources board lack the authority to adopt rules providing for "controlled hunting" through restrictions on the number of hunters and fishermen allowed in limited areas during open seasons. 57 Atty. Gen. 31.

29.21 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.21; 1919 c. 608 s. 1; 1923 c. 191; 1967 c. 26 s. 94; 1967 c. 29 s. 4; 1969 c. 276 s. 588 (4).

Under 29.21, Stats. 1939, the conservation commission may issue monthly bulletins of an educational nature covering activities of the commission and discussions of conservation problems. The expense of publication may be borne out of general appropriation to the commission. But any publication or magazine issued by commission on commercial basis must sustain itself through subscriptions, advertising, etc., and may not be paid for out of commission funds. 29 Atty. Gen. 217.

29.22 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.22; 1919 c. 696 s. 1; 1919 c. 701 s. 2; 1919 c. 702 s. 22; 1921 c. 530; 1927 c. 206; 1931 c. 121; 1931 c. 351 s. 1, 2; 1933 c. 337; 1935 c. 314; 1937 c. 335; 1945 c. 347; Stats. 1945 s. 29.22, 29.23 (3); 1951 c. 354, 409; Stats. 1951 s. 29.22, 29.23 (3), 29.235; 1953 c. 556 s. 3 to 5, 7, 8; Stats. 1953 s. 29.22; 1959 c. 28, 124, 664; 1961 c. 144; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.221 History: 1947 c. 146; Stats. 1947 s. 340.607; 1955 c. 696 s. 66; Stats. 1955 s. 29.221.

29.222 History: 1951 c. 78; Stats. 1951 s. 340.608; 1955 c. 696 s. 67; Stats. 1955 s. 29.222; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.225 History: 1965 c. 456; Stats. 1965 s. 29.225; 1967 c. 26 s. 94; 1969 c. 276 ss. 208, 588 (4); 1969 c. 392.

29.24 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.24; 1921 c. 530; 1927 c. 289; 1929 c. 277; 1933 c. 166; 1937 c. 234; 1953 c. 556; 1967 c. 37.

The words "member of his family" in 29.24, Stats. 1935, do not include employes and do not include any sons or daughters who do not live with their parents. 24 Atty. Gen. 664.

29.255 History: 1937 c. 196; Stats. 1937 s. 29.255; 1957 c. 348; 1969 c. 276 s. 588 (4).

29.256 History: 1939 c. 23; Stats. 1939 s. 29.256; 1951 c. 349.

29.283 History: 1935 c. 471; Stats. 1935 s. 29.283; 1953 c. 556; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (7).

29.286 History: 1931 c. 382; Stats. 1931 s. 29.286; 1933 c. 404; 1943 c. 104; 1953 c. 556 s. 17, 18; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.288 History: 1957 c. 353; Stats. 1957 s. 29.288; 1959 c. 561; 1965 c. 302; 1967 c. 224.

The purpose of 29.288, Stats. 1957, is to supplement and strengthen 26.12 (6) (d). Tree tops discarded during lumbering operations are debris or refuse within the meaning of this section, and depositing such tree tops upon ice of a navigable waterway of this state is a violation thereof. 47 Atty. Gen. 226.

29.29 History: 1917 c. 668 s. 3; Stats. 1917

s. 29.29; 1947 c. 166, 221; 1949 c. 603; 1953 c. 295; 1957 c. 523; 1959 c. 660; 1965 c. 614 s. 57 (1), (2); 1967 c. 224; 1969 c. 146, 268; 1969 c. 276 ss. 209, 588 (5); 1969 c. 392.

Shooting of rough fish is not a violation of 29.29, Stats. 1931. 22 Atty. Gen. 352.

Proof of the deposit in the waters of the state of any substances named in 29.29 (3) establishes prima facie a violation of the statute. 37 Atty. Gen. 307.

29.29 (3), which makes it a criminal offense to deposit deleterious substances in public waters and 29.05 (1) relating to its enforcement, are not superseded by and are not inconsistent with 144.53 relating to the authority of the committee on water pollution. 38 Atty. Gen. 127.

Dumping ashes and clinkers on the bed of a navigable lake and interfering with the fisheries therein is in violation of the property rights of the state. If such ashes and clinkers are in fact deleterious to fish life, then dumping such refuse in navigable waters is a violation of this section. 38 Atty. Gen. 404.

29.29 (4) is applicable to forest and noncrop areas only, regardless of location and ownership (except in the case of the state itself) and urban areas as such are not exempt. 46 Atty. Gen. 289.

29.30 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.30; 1931 c. 133; 1939 c. 438; 1943 c. 104; 1953 c. 220, 556; 1955 c. 272; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

29.33 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.33; 1919 c. 696 s. 1; 1921 c. 141 s. 2; 1921 c. 275; 1921 c. 590 s. 5; 1923 c. 213, 215, 432; 1925 c. 55, 56, 74, 179, 278; 1929 c. 312; 1935 c. 84, 224, 423, 497, 529; 1937 c. 347; 1939 c. 438; 1943 c. 104; 1949 c. 394, 624; 1953 c. 83; 1955 c. 84, 118, 272, 652; 1961 c. 30, 621; 1967 c. 26 s. 94; 1967 c. 63; 1969 c. 276 ss. 210, 588 (4).

A resident Wisconsin commercial fisherman may purchase a boat owned by a resident of Michigan and enrolled by the U. S. government in Michigan and upon reenrollment of the boat at a Wisconsin port he is entitled to a resident net and set hook commercial fishing license under 29.33, Stats. 1939, permitting use of such boat in outlying waters of Wisconsin. 30 Atty. Gen. 129.

29.336 History: 1935 c. 380; Stats. 1935 s. 29.336; 1943 c. 104; 1961 c. 218; 1967 c. 29 s. 2.

29.34 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.34; 1919 c. 526 s. 1; 1921 c. 349; 1923 c. 232; 1923 c. 342 s. 2; 1925 c. 351; 1931 c. 390; 1949 c. 533; 1951 c. 431; 1957 c. 610; 1969 c. 276 s. 588 (4).

29.343 History: 1945 c. 464; Stats. 1945 s. 29.343; 1953 c. 39; 1965 c. 327; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.35 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.35; 1921 c. 306 s. 1, 2; 1923 c. 342 s. 1, 2; 1925 c. 349; 1929 c. 118; 1931 c. 133; 1953 c. 556 s. 22 to 24; 1959 c. 169; 1969 c. 276 s. 588 (4).

29.36 History: 1947 c. 497; Stats. 1947 s. 29.36; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.37 History: 1917 c. 668 s. 3; Stats. 1917 s.

29.37; 1919 c. 526 s. 1, 2; 1921 c. 116; 1925 c. 351; 1929 c. 133; 1931 c. 57, 209, 221; 1931 c. 476 s. 2; 1939 c. 438; 1945 c. 576; 1947 c. 244; 1959 c. 169; 1967 c. 10; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.38 History: 1919 c. 623 s. 1, 2; 1919 c. 702 s. 24; Stats. 1919 s. 29.38; 1921 c. 106; 1925 c. 78; 1931 c. 35; 1947 c. 60; 1951 c. 390; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.39 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.39; 1947 c. 232.

Mere possession of deer hair is not unlawful under 29.39, as supplemented by 29.01. *Jewell v. Hempleman*, 210 W 265, 246 NW 441.

The owner of an automobile was not guilty of illegally having fish in his possession, where the fish were surreptitiously concealed therein by another, without his knowledge or consent. 6 Atty. Gen. 708.

Fish legally taken in one county may be legally possessed in another county, where there is close season for such fish. 10 Atty. Gen. 501.

Rabbits lawfully taken in one county may be transported and legally possessed in a county where there is no open season. A butcher may have in his possession for sale during open season not more than the bag limit. 11 Atty. Gen. 64.

Indians have no right to transport the carcass of a deer outside the reservation where it was hunted and killed; and a white man has no right to purchase it from an Indian. 20 Atty. Gen. 982.

No one can have in his possession more than the bag limit for any one day at any time. 20 Atty. Gen. 1147.

See note to 29.135, citing 24 Atty. Gen. 810.

29.395 History: 1929 c. 120; Stats. 1929 s. 29.395; 1947 c. 232.

Furs which were taken in close season and seized under an illegal search warrant should not be returned by the state. *State ex rel. Meyer v. Keeler*, 205 W 175, 236 NW 561.

29.40 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.40; 1921 c. 553 s. 3; 1927 c. 289; 1953 c. 556; 1959 c. 169.

A person residing in this state who has lawfully killed a deer and attached the deer tag thereto may store such deer in his locker in a public locker plant throughout the year. 36 Atty. Gen. 429.

29.41 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.41; 1953 c. 68; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

In a prosecution for unlawful possession of muskrat skins showing that the animals had been shot or speared, the state need not prove that the defendant examined the skins or knew that the animals had been speared. The defendant was bound to examine them and is presumed to know what such an examination would show. *Cohen v. State*, 180 W 352, 192 NW 992.

Mink skins shipped, where the package failed to have a statement on the outside giving the number and kinds of hides in the package and the number of shipper's trapping license, as required by 29.13 (2), Stats. 1925, are not shipped in violation of law so long as

they come within an express provision of 29.41. 16 Atty. Gen. 198.

Illegal fur carried in an automobile may be seized and taken by an officer if he has reasonable grounds to believe that said illegal fur is being transported in the automobile. 19 Atty. Gen. 139.

29.42 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.42.

29.43 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.43; 1947 c. 232; 1967 c. 26 s. 94; 1969 c. 392 s. 87 (24).

A nonresident who retains fish in his possession need not use the label required by 29.43 (4), Stats. 1923; a nonresident who delivers fish to a common carrier or agent for transportation must use the label. 12 Atty. Gen. 575.

A person shipping skins illegally taken, shipped from various counties in the state to one county, may be prosecuted for illegally transporting or causing to be transported such skins in that county. 16 Atty. Gen. 258.

29.44 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.44; 1947 c. 232.

A regulation limiting possession of bullheads to 30 pounds a day applies to shipments in interstate commerce. 7 Atty. Gen. 358.

29.45 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.45; 1921 c. 553 s. 3; 1927 c. 63; 1947 c. 232; 1959 c. 37; 1967 c. 10, 160; 1969 c. 55.

An express agent who accepts a box marked "fish" for shipment, when in fact it contains venison, is liable although ignorant of the contents of the box. 2 Atty. Gen. 402.

29.46 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.46; 1947 c. 232; 1953 c. 556.

There is no violation of the statute where 2 licensed hunters, each having 14 ducks, alight from a train and one carries all the ducks while the other carries the baggage. 6 Atty. Gen. 667.

29.47 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.47; 1919 c. 696 s. 1; 1931 c. 221 s. 2; 1931 c. 351 s. 2; 1935 c. 288; 1939 c. 438; 1943 c. 104; 1947 c. 232; 1949 c. 215; 1955 c. 119; 1959 c. 75; 1967 c. 26 s. 94; 1967 c. 265; 1969 c. 276 s. 588 (3), (4).

29.475 History: 1931 c. 163; Stats. 1931 s. 29.475; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.48 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.48; 1927 c. 64; 1931 c. 221 s. 2; 1953 c. 556; 1959 c. 37; 1961 c. 291.

An Indian who sells fish off the reservation which were caught on the reservation violates the fish and game law and may be prosecuted. 10 Atty. Gen. 931.

A white person who purchases fish on an Indian reservation during close season thereby violates this section. 10 Atty. Gen. 941.

This section is not invalid as applied to interstate and foreign commerce. 27 Atty. Gen. 35.

Since the state is the owner of all game in this state unlawfully taken or sold, game wardens acting for the state may purchase venison to obtain evidence of illegal sales without themselves being guilty of violating this

section. This does not constitute entrapment, at least so long as the warden does not use pressure to induce a sale which would not otherwise be made. 38 Atty. Gen. 193.

29.49 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.49; 1953 c. 556; 1955 c. 120; 1959 c. 561; 1967 c. 26 s. 94; 1967 c. 29 s. 5; 1969 c. 276 s. 588 (4).

29.50 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.50; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.51 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.51; 1923 c. 227; 1935 c. 412; 1967 c. 26 s. 94; 1967 c. 29 s. 4; 1969 c. 276 ss. 211, 588 (3), (4); 1969 c. 392 ss. 16g, 87 (24).

29.513 History: 1957 c. 440; Stats. 1957 s. 29.513; 1969 c. 276 s. 588 (4).

29.515 History: 1955 c. 696 s. 8; Stats. 1955 s. 29.515.

29.52 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.52; 1921 c. 130, 347; 1929 c. 503; 1951 c. 391; 1961 c. 389; 1965 c. 47, 433; 1967 c. 16; 1969 c. 276 s. 588 (4).

The conservation commission may cancel a certificate when the owner does not actually conduct a private fish hatchery as defined in this section. 9 Atty. Gen. 288.

An artificial lake or pond should be licensed as a private fish hatchery. The owner of an artificial lake or pond may destroy fish therein by poison, drainage or otherwise. The owner has the right to sell game or other fish taken from his impoundment upon compliance with this section. 40 Atty. Gen. 486.

The conservation commission has no statutory authority to issue a private fish hatchery license for a natural lake. The term "substantial public interest" as used in 29.52 (3) (a), Stats. 1951, may properly be interpreted to refer to an actual public user. In doubtful cases, the commission must find as a fact, on the basis of proper scientific evidence, whether a particular body of water is a natural lake or a natural pond. 41 Atty. Gen. 203.

29.53 History: 1919 c. 397; 1919 c. 671 s. 7; Stats. 1919 s. 29.53; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.53, Stats. 1927, is not broad enough to include a pond which has no outlet to the Mississippi river or any branch or river whose waters flow into the Mississippi river. 18 Atty. Gen. 282.

29.535 History: 1935 c. 288; Stats. 1935 s. 29.535; 1957 c. 108; 1967 c. 16; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392.

29.536 History: 1935 c. 305; Stats. 1935 s. 29.536; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.54 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.54; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.544 History: 1937 c. 68; Stats. 1937 s. 94.375; 1953 c. 130; 1955 c. 10, 155; Stats. 1955 s. 29.544; 1959 c. 466; 1961 c. 547; 1967 c. 26 s. 94; 1967 c. 114; 1969 c. 276 ss. 212, 588 (4).

29.545 History: 1941 c. 222; Stats. 1941 s. 29.545; 1953 c. 234; 1963 c. 218; 1965 c. 614 s. 57 (1); 1967 c. 26 s. 94; 1969 c. 276.

On the subject of permits for chemical treatment of waters see 52 Atty. Gen. 380.

29.546 History: 1923 c. 138; Stats. 1923 s. 4441b; 1925 c. 4; Stats. 1925 s. 343.442; 1929 c. 299; 1933 c. 108; 1939 c. 277, 509; 1951 c. 261 s. 10; 1955 c. 652 s. 59; 1955 c. 696 s. 113; Stats. 1955 s. 29.546; 1967 c. 26 s. 94; 1969 c. 241; 1969 c. 276 s. 588 (3), (4).

29.55 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.55; 1959 c. 37; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

The conservation commission has the authority to grant permits to park boards to take wild animals for park purposes and thereafter sell such wild animals or their offspring for park purposes, and may grant permits to park boards to take wild animals in the possession of the commission for park purposes. 45 Atty. Gen. 29.

29.56 History: 1927 c. 469; Stats. 1927 s. 29.56; 1929 c. 134, 153, 283, 410; 1931 c. 28; 1933 c. 421; 1939 c. 438; 1953 c. 295; 1967 c. 26 s. 94; 1967 c. 132; 1969 c. 276 ss. 588 (4), 610.

29.565 History: 1961 c. 536; Stats. 1961 s. 29.565; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.57 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.57; 1921 c. 134; 1927 c. 196; 1965 c. 252, 283; 1967 c. 26 s. 94; 1967 c. 67, 132; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

Posting of wildlife refuges by signs is not a condition precedent to prosecution for hunting or fishing thereon. The conservation commission may enter private property to place signs in reasonable regulation of such refuges. Publicity of such refuges may be advisable but except as specifically required by 29.57 (3) has no legal effect. 20 Atty. Gen. 1122.

Game refuges but not wildlife refuges may be established by the conservation department on forest crop lands whether such lands are owned privately or by counties. 23 Atty. Gen. 632.

Wildlife refuges may be established for limited time on school fund lands where such procedure will enhance the value of the lands and not interfere with their sale. 25 Atty. Gen. 578.

29.571 History: 1927 c. 475; Stats. 1927 s. 29.571; 1945 c. 447; 1951 c. 261 s. 10; 1963 c. 400; 1967 c. 26 s. 94; 1967 c. 29 s. 5; 1969 c. 276 s. 588 (4).

On acquisition of bird reservations by the United States see note to 1.036; and on eminent domain see notes to various sections of ch. 32.

This section directs the conservation commission to purchase or acquire by condemnation such lands and flowage rights as are necessary to execution of the statutory purpose. *State v. Adelmeyer*, 221 W 246, 265 NW 838.

Proper legal steps were taken by the conservation department in the establishment of Horicon marsh area as a wildlife refuge; and persons hunting or trapping within the boundaries of the refuge, in violation of ch. 29, Stats. 1931, may be arrested and punished for such violation. 21 Atty. Gen. 992.

The supreme court in the case of *State v.*

Lipinski, 212 W 421, which had to do with a fish farm within the limits of the wildlife refuge established by ch. 484, Laws 1931, did not void the opinion in 21 Atty. Gen. 992 and did not destroy the effectiveness of 29.571. 22 Atty. Gen. 627.

Under this section the conservation commission must establish a wildlife refuge on Horicon marsh and the size of the area to be acquired is within the discretion of the commission. 25 Atty. Gen. 317.

On the Horicon national wildlife refuge see note to 29.174, citing 42 Atty. Gen. 274.

29.572 History: 1967 c. 165; Stats. 1967 s. 29.572; 1969 c. 276 s. 588 (4).

29.573 History: 1931 c. 482; Stats. 1931 s. 29.573; 1961 c. 77; 1963 c. 367; 1965 c. 503; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.574 History: 1929 c. 369; Stats. 1929 s. 29.574; 1931 c. 351 s. 2; 1931 c. 482 s. 1; 1939 c. 202; 1955 c. 400; 1957 c. 251; 1959 c. 277; 1961 c. 77, 307; 1965 c. 249, 503; 1967 c. 26 s. 94; 1967 c. 80, 164; 1969 c. 276 s. 588 (4); 1969 c. 392 s. 87 (24).

29.575 History: 1919 c. 344; 1919 c. 671 s. 6; Stats. 1919 s. 29.575; 1923 c. 430 s. 1, 2; 1925 c. 369 s. 1; 1927 c. 476; 1933 c. 329 s. 1; 1941 c. 150; 1947 c. 116; 1949 c. 251, 527; 1957 c. 351; 1961 c. 307; 1963 c. 298; 1965 c. 503; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

See note to 29.02, citing *Krenz v. Nichols*, 197 W 394, 222 NW 300.

The statute authorizing the owner or lessee of lands to operate a muskrat farm, on complying with the provisions of the statute, so far as it affects the public is reasonable, and should be given a liberal construction to sustain its validity. *Krenz v. Nichols*, 197 W 394, 222 NW 300.

The conservation commission has authority to issue a muskrat farm license to the owner and lessee of privately owned land lying under the navigable waters of the Wisconsin river, the statute indicating no legislative intention or purpose that no license shall be granted for land covered by navigable waters, and the land alone being licensed, and there being no interference with the public right of navigation in that muskrat farming is not an incident of navigation. *Munninghoff v. Conservation Comm.* 255 W 252, 38 NW (2d) 712.

A man who raises beavers and muskrats on the same farm must pay both license fees. 12 Atty. Gen. 473.

Exclusive rights to trap muskrats can be given to owners of lands submerged under nonnavigable waters. 15 Atty. Gen. 531.

A muskrat farm operated under this section does not give proprietary title to all muskrats that come upon such farm or tract; the state can make such restrictions and regulations for their killing or preservation as it may see fit and can change the same from time to time. Ch. 476, Laws 1927, restricting their being killed on such farms except during open seasons, is constitutional. 16 Atty. Gen. 690.

An owner or lessee of lands suitable for a muskrat or beaver farm is entitled to a license from the conservation commission when he has complied with the conditions specified in the statute. 16 Atty. Gen. 796.

Licenses for muskrat, beaver or fur animal farms may not issue covering any land submerged by a navigable lake or pond, but may issue covering a navigable stream. 17 Atty. Gen. 52.

The holder of a muskrat farm license for 1932 who does not renew the same must pay for muskrats on the farm when applying for a new license. 23 Atty. Gen. 634.

A muskrat farm license should be issued to cover one tract of land only. 24 Atty. Gen. 366.

29.576 History: 1923 c. 343; Stats. 1923 s. 29.576; 1933 c. 329 s. 1; 1941 c. 150; 1947 c. 116; 1949 c. 527; 1961 c. 307; 1965 c. 503; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

See notes to 29.575, citing 12 Atty. Gen. 473, 16 Atty. Gen. 796, and 17 Atty. Gen. 52.

29.577 History: 1925 c. 369 s. 2; Stats. 1925 s. 29.577; 1939 c. 480; 1945 c. 563; 1949 c. 527; 1955 c. 536; 1961 c. 307; 1963 c. 298; 1965 c. 503; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

See note to 29.575, citing 17 Atty. Gen. 52.

The owner of a duly licensed fur farm may lawfully retain fur-bearing animals which he has sold to others not licensed and may receive a stipulated sum or a division of progeny for such "ranching." 19 Atty. Gen. 167.

29.578 History: 1929 c. 508; Stats. 1929 s. 29.578; 1939 c. 202; 1941 c. 133; 1947 c. 95; 1955 c. 10; 1959 c. 382; 1965 c. 503; 1967 c. 26 s. 94; 1967 c. 29 s. 5; 1969 c. 276 s. 588 (3), (4); 1969 c. 392 s. 87 (24).

29.579 History: 1937 c. 428; Stats. 1937 s. 29.579; 1945 c. 563; 1953 c. 212.

29.58 History: 1953 c. 105; Stats. 1953 s. 29.58; 1961 c. 307; 1963 c. 298, 459; 1965 c. 503; 1967 c. 26 s. 94; 1967 c. 165; 1969 c. 276 s. 588 (4).

29.582 History: 1923 c. 275; 1923 c. 449 s. 31; Stats. 1923 s. 4439e; 1925 c. 4; Stats. 1925 s. 343.421; 1935 c. 415; 1945 c. 563; 1955 c. 696 s. 9, 111; Stats. 1955 s. 29.582; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

Owners of mink raised in captivity are entitled to all the rights of owners of domestic animals. 45 Atty. Gen. 39.

29.585 History: 1957 c. 270; Stats. 1957 s. 29.585; 1967 c. 26 s. 94; 1969 c. 276 ss. 214, 588 (4).

29.586 History: 1957 c. 148; Stats. 1957 s. 29.586; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.59 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.59; 1919 c. 702 s. 19; 1921 c. 476; 1929 c. 215; 1951 c. 340; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

As used in 29.59 (1), as amended by ch. 340, Laws 1951, "land on which it is located," is construed as limited to lands on the banks of the navigable stream, and does not apply to submerged lands lying within the bed of the stream, and therefore does not deprive the state of its inherent power to remove a beaver dam obstructing a navigable stream, provided it does not trespass on the lands of the riparian owner other than those lying within the bed of the stream, which deprivation

would be unconstitutional as abdicating the police power of the state. *State v. Sensenbrenner*, 262 W 118, 53 NW (2d) 773.

The conservation commission is vested with exclusive jurisdiction to capture and remove beaver causing damage to private property. 39 Atty. Gen. 116.

29.594 History: 1965 c. 408, 652; Stats. 1965 s. 29.594; 1967 c. 291 s. 14; 1967 c. 322; 1969 c. 276 s. 588 (4).

29.595 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.595; 1931 c. 351 s. 2; 1931 c. 428 s. 2; Stats. 1931 s. 29.595, 29.596; 1935 c. 166, 288; Stats. 1935 s. 29.595 to 29.597; 1939 c. 226; 1947 c. 9 s. 31; 1949 c. 528; Stats. 1949 s. 29.595; 1953 c. 129; 1955 c. 392; 1961 c. 349 ss. 5, 7 (3); 1965 c. 433 s. 121; 1967 c. 29 s. 5; 1967 c. 110; 1967 c. 291 s. 14; 1969 c. 276 s. 588 (4).

Claims for damage done by deer may be allowed only for damage to property on land of claimant. 21 Atty. Gen. 1070.

A sign bearing the inscription "Fur farm licensed by Wisconsin conservation commission" is construed to be posting lands. 24 Atty. Gen. 552.

29.595 (2) (b) is directory rather than mandatory so far as the 5-day period for making and filing the award is concerned. 34 Atty. Gen. 296.

The authority of a circuit judge under 25.595 (2) (b) to try deer damage claims may not be exercised by a judge of a county court having circuit court jurisdiction. 35 Atty. Gen. 1.

29.596 History: 1957 c. 49; Stats. 1957 s. 29.596; 1969 c. 276 s. 588 (4).

29.60 History: 1917 c. 277, 502; 1917 c. 668 s. 3; 1917 c. 676 s. 2; Stats. 1917 s. 29.60, 670 (4); 1919 c. 695 s. 26; Stats. 1919 s. 29.60; 1921 c. 268; 1923 c. 264 s. 1, 3; 1927 c. 27; 1929 c. 62, 179, 214; 1931 c. 203; 1935 c. 21, 148; 1945 c. 5, 287; 1947 c. 9; 1953 c. 319, 388, 626; 1955 c. 204 s. 1; 1955 c. 540; 1957 c. 157; 1957 c. 259 s. 1; 1959 c. 612; 1961 c. 343; 1963 c. 6, 317; 1967 c. 26 s. 94; 1969 c. 146, 276, 392.

29.605 History: 1933 c. 398; Stats. 1933 s. 29.605; 1953 c. 319; 1967 c. 26 s. 94; 1969 c. 276 ss. 216, 588 (4).

29.61 History: 1870 c. 138 s. 6, 7; R. S. 1878 s. 4555; Stats. 1898 s. 4555; 1917 c. 668 s. 3; Stats. 1917 s. 29.61, 4555; 1921 c. 129; 1923 c. 70; 1925 c. 4; Stats. 1925 s. 29.61, 348.34; 1927 c. 452; 1931 c. 110; 1933 c. 287; 1935 c. 205; 1953 c. 87, 319; 1955 c. 696 s. 250; Stats. 1955 s. 29.61; 1963 c. 62; 1967 c. 26 s. 95.

The fact that bounty certificates were not filed within 20 days from the date thereof, as directed by law, did not preclude their being filed and considered afterwards. *Blaser v. Vanden Heuvel*, 164 W 98, 159 NW 735.

Statutory provisions governing the payment of state bounties, no longer in force, were construed by the attorneys general in opinions published in 8 Atty. Gen. 274, 15 Atty. Gen. 518, 19 Atty. Gen. 161, 19 Atty. Gen. 196, 19 Atty. Gen. 570, 24 Atty. Gen. 115, 24 Atty. Gen. 145 and 29 Atty. Gen. 270.

A county which has authorized the payment of bounties must follow procedures set

forth in 29.61, 59.15 (2) (c) and 59.16. 49 Atty. Gen. 180.

29.62 History: 1917 c. 668 s. 3; 1917 c. 676 s. 3; Stats. 1917 s. 29.62; 1919 c. 436; 1919 c. 625 s. 2; 1921 c. 321; 1923 t. 54; 1925 c. 90, 282, 301, 339; 1925 c. 454 s. 4; 1927 c. 221; 1929 c. 99; 1933 c. 18, 92, 156; 1933 c. 491 s. 2; 1933 c. 496; 1935 c. 211; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

The conservation commission has power to issue permits for seining of carp over lands which have been submerged by erection of a dam. 13 Atty. Gen. 578.

The provisions of 29.30, Stats. 1923, requiring the securing of a license and displaying of a flag upon nets used to take rough fish, do not apply to taking of rough fish when authorized by the conservation commission under 29.62. 14 Atty. Gen. 80.

29.623 History: 1957 c. 243; Stats. 1957 s. 29.623; 1969 c. 276 s. 588 (4).

29.625 History: 1925 c. 74; Stats. 1925 s. 29.625; 1935 c. 412; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

Provisions of 29.625, Stats. 1925, were construed in 14 Atty. Gen. 484.

29.626 History: 1929 c. 165; Stats. 1929 s. 29.626.

29.63 History: 1917 c. 668 s. 3; Stats. 1917 s. 29.63; 1919 c. 696 s. 1; 1925 c. 352 s. 1, 2; 1927 c. 130; 1931 c. 429 s. 1; 1933 c. 329 s. 2; 1935 c. 498 s. 2; Stats. 1935 s. 29.33 (20), 29.63; 1939 c. 502; 1943 c. 345; 1945 c. 216; 1947 c. 27, 185; 1949 c. 182, 394, 583; Stats. 1949 s. 29.63; 1951 c. 487; 1953 c. 556 s. 32; 1955 c. 10, 175, 696 s. 10, 11; 1959 c. 561; 1965 c. 84; 1967 c. 26 s. 94; 1967 c. 29 s. 5; 1969 c. 276 s. 588 (4).

An applicant for a hunting license who makes a false affidavit that he has not been convicted of any violation of game laws during the previous year, if an affidavit is required by the conservation commission to be made as a condition to obtain such license, can be punished under provisions of 29.63 (1) (d), Stats. 1927. 18 Atty. Gen. 54.

A licensee of a muskrat farm forfeits all rights to muskrats in case his license is revoked. 18 Atty. Gen. 707.

The penalty prescribed in 29.63 (1) (d), Stats. 1929, does not apply to one using an untagged trap under 29.13 (1), as seizure and forfeiture of said trap is a penalty in contemplation of the game laws. 19 Atty. Gen. 212.

Where a fur farm license is granted to a partnership and one of the partners is convicted of violation of game laws, the license is revoked. 19 Atty. Gen. 548.

One who paddles a boat and holds a light for another illegally fishing may be convicted as a principal. 22 Atty. Gen. 381.

Violations of conservation commission orders issued under ch. 29 cannot be punished by penalties provided for violations of ch. 23. 25 Atty. Gen. 292.

A plea of nolo contendere may in the court's discretion be rejected. If received, the court's docket should show the plea and the court's adjudication of guilt (as well as other proceedings) as in any other case. The court

should adjudge defendant guilty on his plea before imposing sentence. 33 Atty. Gen. 99.

29.635 History: 1949 c. 583; Stats. 1949 s. 29.635; 1953 c. 556 s. 33; 1957 c. 308; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

See note to 973.12, citing *State v. Meyer*, 258 W 326, 46 NW (2d) 341.

All violations of the conservation laws after the effective date of ch. 583, Laws 1949, are subject to the penalties therein prescribed, regardless of the date of prior conviction. 39 Atty. Gen. 93.

29.64 History: 1931 c. 278 s. 2; Stats. 1931 s. 29.64.

29.641 History: 1905 c. 404 s. 1; Supl. 1906 s. 1498b-1; 1909 c. 525; 1913 c. 772 s. 50; 1915 c. 594 s. 75; 1915 c. 634 s. 5; Stats. 1919 s. 4562a; 1925 c. 4; Stats. 1925 s. 348.381; 1955 c. 696 s. 257; Stats. 1955 s. 29.641; 1969 c. 276.

29.642 History: 1897 c. 221 s. 13; Stats. 1898 s. 4562c; 1919 c. 696 s. 1; 1925 c. 4; Stats. 1925 s. 348.383; 1927 c. 182; 1947 c. 102; 1951 c. 93; 1953 c. 93; 1955 c. 696 s. 259; Stats. 1955 s. 29.642.

A nonresident who, by a false statement concerning his residence, obtains a resident hunting license violates this section. 14 Atty. Gen. 404.

29.643 History: 1897 c. 221 s. 12; Stats. 1898 s. 4562b; 1919 c. 696 s. 1; 1925 c. 4; Stats. 1925 s. 348.382; 1953 c. 93; 1955 c. 696 s. 258; Stats. 1955 s. 29.643; 1961 c. 389.

29.644 History: 1917 c. 668 s. 5; Stats. 1917 s. 4562d; 1925 c. 4; Stats. 1925 s. 348.384; 1955 c. 696 s. 260; Stats. 1955 s. 29.644; 1967 c. 26 s. 94; 1969 c. 276 s. 588 (4).

29.645 History: 1961 c. 389; Stats. 1961 s. 29.645.

29.65 History: 1933 c. 389; Stats. 1933 s. 29.65; 1953 c. 319; 1965 c. 249; 1967 c. 26 s. 94; 1967 c. 29 s. 2; 1969 c. 276 ss. 218, 588 (4).

29.66 History: 1961 c. 389; Stats. 1961 s. 29.66; 1967 c. 26 s. 94; 1969 c. 255; 1969 c. 276 s. 588 (4); 1969 c. 394.

29.68 History: 1963 c. 89; Stats. 1963 s. 29.68; 1965 c. 190; 1969 c. 394.

Liability of landowner to persons entering for recreational purposes. *Lehmann*, 1964 WLR 705.

CHAPTER 30.

Navigable Waters, Harbors and Navigation.

Editor's Notes: (1) Ch. 30 was repealed and recreated by ch. 441, Laws 1959 (Bill 1-A); the new ch. 30 consisting of restatements from the old ch. 30 and new provisions; and provisions from ch. 31 (which was otherwise changed); 66.073; ch. 138, which was repealed, and some provisions from ch. 762, Laws 1913. The cross reference table is designed to assist in tracing the various provisions of the old law into the sections of this bill. It does not show (except in the case of complete repeals) what specifically happened to a particular provision of the