

South Dakota Falconry Regulations

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41:09:06:17. Definitions. Terms used in this chapter have the following meanings:

- (1) "Falconry," the sport of taking quarry by means of a trained raptor;
- (2) "Raptor," all birds that are members of the order Falconiformes or Strigiformes; specifically, but not limited to, falcons, hawks, eagles, owls, and vultures;
- (3) "Take," to trap or capture, or to attempt to trap or capture, a raptor;
- (4) "Possession," actual or constructive control or custody of a raptor, but not ownership; and
- (5) "Department," the South Dakota Department of Game, Fish and Parks.

41:09:06:18. Application for falconry permit - Requirements Limitations.

A person may not take, transport, possess, sell, purchase, barter, or offer to sell, purchase, or barter a raptor unless a falconry permit or a special permit to do so is obtained under this chapter. Only residents of South Dakota may apply for a falconry permit. Applicants for falconry permits shall fill out application forms furnished by the department. The department may not issue a permit to an applicant unless the applicant has paid the fees required under § 41:09:06: 19 and has passed a written or oral examination or both, given by the department concerning raptors and falconry. The applicant must answer correctly at least 80 percent of the questions on the written examination. If the applicant fails to pass the examination, the applicant may not reapply for a license until at least six months after the date of the examination.

Permit class and requirements are as follows:

- (1) An apprentice permit may be issued to a person 14 years of age or older, provided the person has passed the written examination and has been assigned to a general or master permittee sponsor. An apprentice permittee may possess only one raptor which must be either an American kestrel (*Falco sparverius*), a red-shouldered hawk (*Buteo lineatus*), or a red-tailed hawk (*Buteo jamaicensis*) which must be taken from the wild. An apprentice permittee may replace by capture no more than one raptor in any 12-month period under the supervision of the permittee's sponsor;
- (2) A general permit may be issued to a person 18 years of age or older who has at least two years of approved falconry experience at the apprentice level or its equivalent. Evidence that the applicant has had a valid falconry permit in another state and has passed an approved two-year apprentice program or has practiced falconry in another state for at least 48 consecutive months qualifies the applicant for a general permit. A general permittee may possess no more than two raptors, excluding threatened or endangered species listed under 50 C.F.R. Part 17 (April 10, 1987) and golden eagles, and may not obtain more than two captors as replacements in a 12-month period;
- (3) A master permit may be issued to a person who has at least 5 years experience at the general permit level or its equivalent. A raptor law or game law conviction is cause for refusal or revocation of a master permit. A master permittee may possess no more than three raptors which may include, with written joint permit authorization from the department and the U.S. fish and wildlife service, no more than one golden eagle and one raptor designated as a threatened or endangered species under 50 C.F.R. Part 17 (April 10, 1987). A golden eagle in possession shall have a tag or marker identifying the permittee and a functioning radio telemetry transmitter attached to the bird whenever it is flown free of tether. No more than two raptors may be replaced by raptors taken from the wild in any 12-month period.
- (4) Persons engaged in department-approved raptor breeding attempts may receive written authorization for limited raptor possession or taking purposes from the secretary or an authorized representative.

General or master permittees may be assigned as sponsor to no more than three apprentice permittees at one time. All permits are nontransferable. If the department has no notice of incompetence or unfitness of an applicant whose permit has expired, a permit may be renewed without requiring further examination; otherwise, a reexamination may be required or the renewal may be denied. Applicants who are negligent in renewing their permit may have their raptors confiscated and may be required to reapply for, take, and pass the falconry permit examination.

41:09:06:19. Permit fees. A falconry permit expires on the date designated on the

face of the permit unless it is revoked, but not more than three years from the date of issuance or renewal. Licenses shall be renewed at three-year intervals. New permits issued during a three-year interval shall be issued for the remainder of that three-year period. The fee for an initial apprentice falconry permit, an initial general raptor permit, or a master falconry permit is \$50 for the initial year. The fee for a renewal permit of any class is \$50.

41:09:06:20. Inspection of facilities. Before issuance of a permit allowing the possession of raptors, a department representative shall inspect the applicant's facilities for keeping the raptors and shall make a written report concerning them, including a description of the facilities and equipment. The facilities and equipment shall be maintained to the following department specifications while any raptor is in possession:

(1) Raptor housing facilities whether indoors or outdoors shall protect the raptors from the environment, predators, and undue disturbances. The applicant shall meet the following requirements, except that, depending upon climatic conditions, the department may require only one of the facilities described as follows:

(a) Indoor facilities shall be large enough to allow easy access for caring for the raptors housed in the facility. If more than one raptor is to be kept in a facility, the raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a secure door that can be easily closed. The floor of the facility shall permit easy cleaning and shall be well drained;

(b) Outdoor facilities shall be fenced and covered with netting or wire or roofed to protect the birds from disturbance and attack by predators. However, perches more than six and one-half feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch;

(2) The following items shall be in the possession of the applicant before the applicant can obtain a permit:

(a) At least one pair of Aylmeri jesses or a similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. Traditional one-piece jesses may be used on raptors when not being flown;

(b) At least one flexible, weather-resistant leash and one strong swivel of falconry design;

(c) At least one container, two to six inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;

(d) At least one weathering area perch of a falconry design and one resting or sleeping perch designed for safety for each raptor;

(e) A reliable scale or balance for weighing the captor and graduated to increments of not more than one-half ounce or 15 grams.

41:09:06:21. Taking or acquisition of raptors - Trapping requirements.

No person may take or attempt to take any raptor without first acquiring a raptor collecting permit issued by the department. A permittee shall have the raptor collecting permit in immediate possession while taking or attempting to take any raptor. Each nonresident applicant shall provide a copy of any federal and home state falconry permit prior to being issued a raptor collecting permit. The fee for a nonresident raptor collecting permit is \$200. No permittee may take, purchase, receive, or otherwise acquire or sell, barter, transfer, or otherwise dispose of any raptor unless the permittee submits a copy of the migratory bird acquisition/disposition report to the department within five calendar days after the transaction.

Raptors may only be captured with traps or nets which are humane in their operation and use. Traps of such construction as Swedish goshawk traps shall be attended regularly at least at 12-hour intervals; all other trapping devices shall be constantly attended while in use.

Any raptor collecting permittee may take passage raptors (immature raptors in their first year plumage), adult American kestrels and adult great horned owls for falconry purposes. Other raptors, except threatened and endangered species, may be taken as adults only with written joint permission to do so from the department and the United States Fish and Wildlife Service according to 50 C.F.R. § 21.29(i)(4) (October 1, 1989). The trapping of passage raptors is permitted only between September 21 and January 31.

Raptors which are marked and have subsequently escaped may be retrapped at any time throughout the year.

Only a resident general or master falconry permittee may take eyas (young, flightless birds) from a nest or aerie. At least one eya shall be left in the nest or aerie. Eyas may be taken only between May 25 and July 10. The permittee shall allow a department representative to observe the permittee's attempt to take eyas if so requested by the department.

41:09:06:22. Threatened and endangered species protected. A person may not capture or possess a raptor designated as a threatened or endangered species under SO C.F.R. Part 17 (April 10, 1987) or chapter 41:10:02 without a special permit issued by the department secretary.

41:09:06:23. Permanent marking - Restrictions. Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*) shall be banded with a permanent United States Fish and Wildlife Service band. Captive-bred raptors shall be marked with a yellow band or any other band as

designated by the United States Fish and Wildlife Service under 50 C.F.R. Part 21.30 (October 1, 1989). The banding shall be accomplished by a department representative or by the permittee in the presence of a department representative. A nonresident taking passage gyrfalcons shall have the falcon banded in accordance with their state's falconry regulations. No person may alter, counterfeit, or deface a permanent band, but the permittee may smooth an imperfect surface provided the integrity of the band or the numbering is not altered. Any band removed from a raptor shall be returned to the department. No raptor may be possessed unless the permittee has a completed migratory bird acquisition/disposition report for each bird possessed.

41:09:06:25. Report of loss of raptor - Release procedure. A permittee who loses a raptor through death, escape, destruction, or otherwise shall submit a copy of the migratory bird acquisition/disposition report to the department within five days. The carcass, if any, or report of necropsy must be made available by the permittee to the department for inspection if requested.

A permittee who desires to release a raptor shall notify the department in writing of that intent. The permittee must release the raptor in the presence of a department representative if requested by the department.

41:09:06:26. Temporary care of raptors. A raptor possessed under authority of a falconry permit may be temporarily held by a person other than the permittee only if that person is otherwise authorized to possess raptors. The raptor must be accompanied at all times by the migratory bird acquisition/disposition report designating the permittee as the possessor of record and by a signed, dated statement from the permittee authorizing the temporary possession. A raptor may be held in temporary care for not more than 30 days.

41:09:06:27. Feather disposition. Feathers that are molted or feathers from birds that die in captivity may be retained and exchanged by permittees for imping purposes only.

41:09:06:28. Hunting by falconry - Requirements - Restrictions. A person may hunt by falconry in South Dakota only if the person has been issued a falconry permit by the person's state of residence and has obtained all state hunting licenses as required by the statutes and rules applicable to the species being hunted. Nonmigratory game birds and game animals may be hunted with raptors from September 1 to March 31, inclusive. Migratory game birds may be hunted only in accordance with state and federal migratory game bird season regulations for not more than 107 days between September 1 and January 15. The daily bag limit is three and the possession limit is six of any game species in the aggregate. During the raptor hunting season, protected nongame birds and animals taken incidentally by a raptor may not be retained or possessed by a permittee. A permittee may not hunt by falconry and be in possession of a firearm or be accompanied by a person carrying a firearm.

41:09:06:29. Captive-bred raptors - Requirements - Restrictions. A person may engage in raptor breeding attempts by first obtaining written joint permission to do so from the department and the United States Fish and Wildlife Service. An applicant must be at least 18 years old with a minimum of two years experience handling raptors. To propagate endangered or threatened species, an applicant must be at least 23 years old with a minimum of seven years experience handling raptors. Persons approved for raptor breeding projects must abide by the following restrictions:

- (1) The permittee shall maintain and submit complete and accurate records of all operations to the department and the United States Fish and Wildlife Service according to 50 C.F.R. § 21.30(d)(11) (October 1, 1989) and § 41:09:06:30. The annual report to the department shall be submitted by January 10 of each year;
- (2) The permittee may sell, barter, or trade captive-bred raptors in accordance with 50 C.F.R. Part 21.30 (October 1, 1989). The permittee may not sell, barter, or trade other raptors;
- (3) The permittee may retain feathers of birds held under the permittee's permit for imping purposes only;
- (4) The permittee must allow a department representative to enter the permittee's premises at any reasonable hour to inspect propagation facilities and any raptors and to audit or copy any permits, books, or records required to be kept by this chapter or United States Fish and Wildlife Service regulation 50 C.F.R. Parts 13 and 21 (October 1, 1989);
- (5) Raptors held for breeding purposes may be used for falconry. However, the transfer of a raptor from the breeding program to a falconry permit or vice versa must be reported to the department at least 72 hours before the transfer; and
- (6) Hybridization is authorized only in accordance with 50 C.F.R. Part 21.30 (October 1, 1989). Intentional or negligent release of hybrids to the wild is a violation of this chapter. Any subspecies cross or hybrid of the family Falconidae or any species or subspecies of the family Falconidae not native to South Dakota shall have a tag or marker identifying the permittee and a functioning radio telemetry transmitter attached to the bird when it is flown free of tether.

41:09:06:30. Annual reports. A report of all raptors in possession shall be submitted by each falconry permittee to the department at the time of permit application or renewal. All falconry permittees who hunt by means of raptors shall also submit a complete report to the department by April 15 each year of hunting activities for the past hunting season on the form provided by the department for that purpose. Persons who fail to submit the reports by April 15 may be required to reapply for,

take" and pass the raptor permit examination, and all raptors in possession are subject to confiscation.

41:09:06:31. Suspension and revocation of permits. All permits are subject to revocation by administrative action of the department. A permit may be summarily suspended by the secretary of the department during the pendency of any proceedings involving the permittee's misuse of privileges extended by the permit or violation of this chapter. Before confiscation of birds or reclassification of permit the permittee has the right of a hearing before a three-person board appointed by the secretary of the department.

Anyone of the following is cause to confiscate raptors or restrict numbers or species of raptors in possession and to revoke, suspend, or reclassify a permittee or application:

- (1) The permittee fails to correct any deficiency noted in the report provided for in § 41:09:06:20 within seven days following receipt of notice of the deficiency from the department;
- (2) Raptors show evidence of mishandling, mistreatment, injury, or death due to negligence; or
- (3) The permittee fails to conform to the provisions of this chapter or violates any provision of this chapter or any provision of 50 C.F.R. Parts 13 and 21 (October 1, 1989) and Part 17 (April 10, 1987).