

Fish and Game — Closed Seasons — Grouse — Hunting Seasons.

The open season for grouse in all parts of the state, except Cascade county, is from the 15th to the 24th day of September, both dates inclusive.

C. A. Jakways, Esq.,
State Game Warden,
Helena, Montana.

My dear Mr. Jakways:

You have requested my opinion as to the meaning of Section 3701, Revised Codes of 1921, relating to the open and closed seasons for grouse.

Section 3701, Revised Codes of 1921, was amended by Section 11 of Chapter 77, Session Laws of 1923, and as so amended now reads as follows:

"The open season for sharp tailed grouse, blue grouse, ruffed grouse, commonly called pheasant or partridge, prairie chicken, sage hen, sage grouse or fool hen, shall begin on the fifteenth (15th) day of September of each year and end on the twenty-fourth (24th) day of September of the same year, both dates inclusive. The closed season for the game birds named herein shall begin on the twenty-fifth (25th) day of September of each year and end on the fourteenth (14th) day of September of the following year, both dates inclusive. During the open season for the game birds named herein it shall be unlawful for any person in any portion of the State of Montana to shoot, kill, or capture or cause to be shot, killed or captured more than (5) sharp tailed grouse, blue grouse, ruffed grouse, commonly called pheasant or partridge, prairie chicken, sage hen, sage grouse, or fool hen in the aggregate of all kinds in any one day; it shall be unlawful for any person to have in his possession more than five (5) of any such birds in the aggregate of all kinds at any one time. During the closed season for the game birds herein named it shall be unlawful to shoot, kill or capture or cause to be shot, killed or captured any of the game named herein. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished accordingly. It shall be unlawful for any person to hunt, shoot, kill or capture, or cause to be shot, killed or captured, any grouse, prairie chicken, fool hen, pheasant or partridge, within Cascade county before September, 1925. That in such counties where a closed season now exists, same shall still be considered closed territory, subject to the jurisdiction of the Fish and Game Commission."

Section 3701, Revised Codes, 1921, was originally enacted as Section 19 of Chapter 238, Session Laws 1921, becoming Section 3701 when embodied in the codes. Such section, as originally enacted, and as it remained in force up to the time of its amendment by Section 11, Chapter 77, Session Laws 1923, permitted the killing of grouse in the counties of Flathead, Missoula, Lincoln and Sanders from October 1st to 15th, both dates inclusive, in each year, but prohibited the killing

of grouse in the remaining counties of the state until September 15th, 1923, and as Chapter 238, Session Laws 1921, expressly repealed all other laws with reference to grouse on its enactment the only law with reference to grouse was Section 19 of that chapter which, as I have said, became Section 3701, Revised Codes, 1921.

Chapter 77, Session Laws 1923, by Section 14 thereof, amended Section 3701 of the codes in the manner hereinbefore shown, and as all other laws with reference to grouse had been repealed, the only law now existing with reference to grouse is Section 3701, as amended by Chapter 77, Session Laws 1923.

Therefore, the open and closed seasons for grouse in all parts of the state are set forth in Section 3701, as amended by Section 11 of Chapter 77, Session Laws 1923, namely: for all of the state, except Cascade county, the open season is from the 15th to the 24th of September, both dates inclusive, in each year; for all of the state, except Cascade county, the closed season is from the 25th of September to the 14th of September of the following year, both dates inclusive; while in Cascade county the killing of grouse is entirely prohibited until September, 1925.

The foregoing are the open and closed seasons, as fixed by the statutes, but under Section 3702, Revised Codes, 1921, the Game and Fish Commission may close entirely any part of a county or a whole county, as it may deem proper.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.