

Beaver, Trapping Of. Beaver, Killing on Shares.

It is unlawful for the owner of land whereon beaver are doing damage to contract for the destruction of the same for a share of the pelts.

Helena, Montana, May 25, 1910.

Hon. Henry Avare,
State Game and Fish Warden,
Helena, Montana.

Dear Sir:—

I am in receipt of your letter of even date, requesting my official opinion upon the liability of a taxpayer or bona fide owner of real estate under Section 8783, for the killing of beaver upon his premises.

Section 8783 provides, "That any taxpayer and bona fide owner of real estate in this state may, upon his own premises, or upon the right of way of his own ditches, kill or destroy beaver when necessary for the protection of his dams, irrigating ditches, and trees, and to prevent the overflowing of water on his premises." Section 8785 makes it a misdemeanor for any person to sell or offer for sale the skin or skins of any beaver within this state, and also provides for a jail sentence of not less than ninety days nor more than one year, or by a fine of not less than fifty dollars nor more than one thousand dollars, or by both such fine and imprisonment. You are therefore advised that an owner of real estate who allows another person to trap beaver upon his premises with a contract or understanding that one-half or any other portion of the skins shall be delivered to the owner of the land in payment for the privilege of trapping said beaver, is guilty of a misdemeanor under Section 8785 of Chapter 81, Session Laws of 1909, and that the person so trapping, shooting or killing beaver under this agreement is liable under Section 8783, Revised Codes, as amended by Chapter 81, Session Laws 1909.

Yours very truly,

ALBERT J. GALEN,
Attorney General.