

Beaver—License to Trap Beaver—Who Must Secure License to Trap Beaver.

Before any person shall be allowed to hunt for, trap, shoot or kill beaver in the state he shall first obtain a special license from the State Game Warden and thereafter report to said Game Warden as required by the game laws.

Dec. 12th, 1918.

Hon. J. L. DeHart,
State Game Warden,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of recent date requesting a construction of Sec. 38, Chapt. 173, Laws of the Fifteenth Legislative Assembly. The question submitted is:

"Must a taxpayer or bona fide owner of real estate in this state, who wishes to trap beaver upon his own premises or upon the right-of-way of his own ditches and trees, secure a special license and pay therefor the sum of \$10.00?"

Said section reads as follows:

"Before any person shall be allowed to so hunt for, trap, shoot or kill beaver he shall apply for and receive from the State Game Warden, a special license and pay therefor into the State Game and Fish Fund, the sum of Ten Dollars. In the application for a license the applicant shall state his name, place of residence and the county and locality therein where such hunting for, trapping, shooting or killing is to be done, which facts must be stated in the license issued.

"It shall hereafter be unlawful to kill beaver within this state except as hereinafter provided:

"Provided that any taxpayer or bona fide owner of real estate in this state, may, upon his own premises, or upon the right-of-way of his own ditches and trees, at any time kill or cause to be killed beaver when necessary for the protection of his dams, irrigating ditches and trees, and to prevent the overflowing of water upon his premises.

"It is further provided, that it shall be the duty of the owner of the premises, or his duly authorized agent in charge of such premises, when any beaver have been caught or killed, as provided in this Act, that the owner or his duly authorized agent

in charge of the premises on which said beaver were caught, or killed, to make written report to the State Game and Fish Warden or his duly authorized deputies within thirty days after such beaver were caught or killed, stating the number of beaver so caught or killed and the location of the property where said beaver were caught or killed.

"Provided further, that when it is shown to the State Game and Fish Warden by said report, as provided in this Act, that he is the owner of, or duly authorized agent in charge of said property, that the State Game and Fish Warden shall issue a permit to the owner of the premises upon which the beaver were caught or killed to ship or sell the number of beaver skins as shown in his report."

"It is further provided, that it shall be the duty of each and every person after he or she has sold the skins of such beaver, to make written report to the State Game and Fish Warden giving the number of skins sold, and the name of the party sold to.

"It is further provided, that the State Game and Fish Warden shall have the power to authorize the killing of beaver at any time upon open lands and game preserves when he shall deem it necessary to prevent the building of dams which would interfere or prevent fish from traveling up or down such streams where such dams shall be built; and further that the State Game Warden shall have authority to authorize the killing of beaver when they are causing damage upon the right-of-way of county roads.

"Provided further, that all skins of beaver so taken by the State Game and Fish Warden and the proceeds paid into the Fish and Game Fund.

"Any person, or persons, violating the provisions of this Act shall be deemed guilty of a misdemeanor."

It will be noted that before *any* person shall be allowed to kill beaver he shall obtain a special license from the Game Warden.

Paragraph 2, prohibits the killing of beaver in the state except in the exceptions enumerated in said section.

From a careful reading of this section in its entirety I am of the opinion that before any person shall be allowed to hunt for, trap, shoot or kill beaver in the state he shall first obtain a special license from the State Game Warden and thereafter report to said Game Warden as required by paragraph 4 and 5 of said section.

Respectfully,

S. C. FORD,
Attorney General.