

Fish and Game—Criminal Law—License—Penalties.

A person who "fishes" without a license has committed a public offense and is subject to the penalty now provided by the last paragraph of Section 3685, as amended by Chapter 77 of the Laws of 1923.

Dean King, Esq.,
County Attorney,
Kalispell, Montana.

My dear Mr. King:

You have requested my opinion whether there is now any penalty fixed by the laws of this state for fishing without a license.

The question of whether there was or was not a penalty for fishing without a license prior to the amendment of Section 3685, R. C. M. 1921, by Chapter 77, Laws of 1923, is a moot one, which need not be considered.

The penalty prescribed by the above amendment relates only to the acts prohibited by Section 3685. Section 3685 is sufficiently broad in itself to authorize the prosecution of persons for fishing or hunting without a license. This section must be read in connection with Section 3682, which declares it to be "unlawful" to fish or hunt without a license, and with Section 3684, which requires a license to be procured.

The several paragraphs of Section 3685, as amended, provide that the applicant "shall obtain a license which shall entitle him" "to fish as authorized by this Act." The words "this Act" clearly refer to the original Act: Chapter 238, Laws of 1921, of which Section 3685 is a part.

Under this section, therefore, a person who "fishes" other than as authorized by "this Act," namely, without a license, has, in my opinion, committed a public offense and is subject to the penalty now provided by the last paragraph of Section 3685, as amended by Chapter 77 of the Laws of 1923.

Very truly yours,

WELLINGTON D. RANKIN,
Attorney General.