

Fishing and Hunting—Trapping—Licenses—Hunting.

A trapper's license is not a contract and creates no vested or property rights.

House bill 157, fixing the dates for trapping fur-bearing animals, governs all outstanding trappers' licenses and limits the trapping season from December 1 to April 15.

Robert H. Hill, Esq.,
State Game Warden,
Helena, Montana.

March 15, 1927.

My dear Mr. Hill:

You have requested my opinion as to the effect of house bill 157, passed by the recent session of the legislature, upon outstanding trapping licenses.

The act fixes the date for trapping fur-bearing animals at December 1 to April 15. Formerly, the date was November 1 to May 1.

It is my opinion that the new law has the effect of curtailing outstanding trappers' licenses so as to make them expire on April 15, 1927, instead of on May 1. The new law is made effective on its passage and approval, except that the last clause of section 7 of said act reads: "The provisions of this act relative to licenses and permits shall be in full force and effect on and after May 1, 1927."

In my opinion, the language above quoted is not decisive of the question under consideration. A Class G or trappers' license, both under the old and the new law, authorizes the holder thereof to trap fur-bearing animals "at such times * * * as may be lawful so to do under the laws of this state."

Since house bill 157 became the law, it is unlawful to trap fur-bearing animals after April 15, and in my opinion this limitation applies to all trappers, regardless of the provisions of previous laws. The only serious question presented in this connection is whether outstanding licenses are such contracts or create such rights as cannot be abridged or changed by the legislature.

In 37 C. J., p. 168, it is said:

"A license is merely a permit or privilege to do what otherwise would be unlawful, and is not a contract between the authority, federal, state, or municipal, granting it and the person to whom it is granted; neither is it property or a property right, nor does it create a vested right; nor is it taxation."

At page 246 the same text book says:

"Since a license is a mere privilege, and neither a contract nor a property or vested right, a statute or ordinance authorizing or providing for its revocation does not violate constitutional provisions, as depriving the licensee of property, immunity, or a privilege."

It is therefore my opinion that holders of existing trappers' licenses are subject to the requirements of house bill 157, fixing the dates for trapping fur-bearing animals.

Very truly yours,

L. A. FOOT,
Attorney General.