

Fish and Game Commission—Open Season—Powers.

The state fish and game commission may shorten the open season on upland birds under their general powers.

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

August 10, 1931.

My dear Mr. Hill:

You request my opinion as follows:

“Will you please advise me if, in your opinion, the State Fish and Game Commission would have the right to shorten the open season, as provided for in section 3701 R. C. M. 1921, on sharp-tailed grouse, blue grouse, fool hen, ruffed grouse, commonly called pheasant or partridge, and prairie chicken?”

You are advised that there would appear to be no authority under section 3701 for shortening the season, but such authority is given in section 3653 as follows:

“It shall have authority to divide the state into fish and game districts, and to create fish, game, or fur-bearing animal districts throughout the state of Montana and to declare closed seasons for hunting, fishing, or trapping in any of said districts, so created, and later to open said districts to hunting, fishing or trapping. It shall have authority to declare a closed season on any species of game, fish, or game birds, or fur-bearing animals threatened with undue depletion, from any cause, and to close any area or district or any stream, public lake, or public water, or portions thereof, to hunting, trapping or fishing for limited periods of time, when such action is necessary to protect recently stocked area, district, water, spawning waters, spawn-

taking waters, or spawn-taking stations, or to prevent the undue depletion of fish, game, and fur-bearing animals, and game and non-game birds, * * *."

It is my understanding that the state has been divided into fish and game districts.

The clause "to close any area * * * to hunting, trapping * * * for limited periods of time when such action is necessary to protect recently stocked areas or to prevent the undue depletion of * * * game and non-game birds" gives you the authority concerning which you inquire.

Very truly yours,

L. A. FOOT,

Attorney General.