

No. 168

STATE FISH AND GAME—LICENSES—SCIENTIFIC INVESTIGATION—UNIVERSITIES—COLLEGES

Held: The charge of five dollars for a license issued under the provisions of Section 3760, Revised Codes of Montana, 1935, is mandatory and must be complied with.

July 15, 1941.

Dr. J. S. McFarland
State Fish and Game Warden
Capitol Building
Helena, Montana

Dear Dr. McFarland:

You have submitted the following question:

"Under Section 3760 of the Montana Fish and Game Laws there is a provision which allows us to give a scientific permit to any qualified person or institution for the purpose of scientific investigation. The cost of this permit is \$5.00. It has not been the custom of this Department to charge a fee for this permit. Would you kindly advise whether this fee is compulsory by law?"

Section 3760 of the Revised Codes of Montana, 1935, provides:

"Section 3760. Permit for taking fish or game for scientific purposes. It shall hereafter be lawful for the duly accredited representative of any school, college, university, or other institution of learning, who may be investigating a scientific subject making the same necessary, to take, kill, capture, and have in his possession for such purpose, any of the birds, fish, or animals found in this state, and to take, kill, and capture the same in any way, except by the explosion of dynamite; provided that no more of any such birds, fish, or animals shall be taken than are necessary for such investigation; and provided, also, that any person who shall desire to engage in such scientific investigation shall apply to the state game warden for a license so to do. If the state game warden is satisfied of the good faith of the applicant, he shall issue to him a permit, which shall place a time limit upon such investigation, and shall place a restriction upon the number of birds, fish, or animals, to be taken thereunder; and the person to whom such license is issued shall pay therefor the sum of five dollars, and shall have no right or authority to take, have, or capture any other or greater number of the birds, fish or animals than are mentioned in said license. Any person violating the provisions of this section shall be guilty of a misdemeanor and punished accordingly."

The provisions of Section 3760 are plain, definite and certain, It is my opinion the charge of five dollars for any license issued under the provisions thereof is mandatory and must be complied with.

Sincerely yours,

JOHN W. BONNER
Attorney General