

No. 288

**BEAVER—TRAPPERS—FISH AND GAME COMMISSION—PERMIT TO KILL BEAVER**

**Held:** Professional trapper, operating under Fish and Game Commission permit issued under provisions of Section 3685, Revised Codes of Montana, 1935, as amended by Chapter 174, Laws of 1939, may, under regulations fixed by the commission, trap beaver on lands other than his own when the owner of such lands secures from the Commission a legal permit for killing beaver which are actually doing damage to his land.

November 10, 1941.

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

Dear Dr. McFarland:

You have submitted the following:

“I have received many inquiries from professional trappers asking if it is legal for them to trap beaver on lands other than their own, when the owner of such other lands has a legal permit from this department for the taking of beaver that are doing damage. May I have an early reply to this query?”

Section 3722, Revised Codes of Montana, 1935, provides among other things:

“. . . Provided, that upon payment of a fee of ten dollars (\$10.00), the state fish and game warden may issue a permit to any bona fide owner or lessee of real estate which is being actually and materially damaged by beaver, to take or destroy beaver on his own or leased premises only, and provided that the warden shall, when issuing the permit mentioned, designate therein the maximum number of beaver that may be taken or destroyed under such permit . . .”

It has heretofore been held (Attorney General's Opinion No. 207, Volume 15, page 144):

“Under Section 3722, Revised Codes of Montana, 1921, there is no legal objection to a licensed owner or lessee of real estate which is actually and materially being damaged by beaver using his regularly employed help in trapping beaver.”

Under the provisions of Section 3722, Revised Codes of Montana, 1935, the owner or lessee may trap the beaver doing damage upon his place or cause the same to be done by another; and I see no distinction necessarily between an employee of the owner or lessee and the professional trapper, provided the owner or lessee desires the services of a professional trapper.

It is therefore my opinion a professional trapper—operating under a permit issued by the Fish and Game Commission, as required under the provisions of Section 3685, Revised Codes of Montana, 1935, as amended by Chapter 174, Laws of 1939, aforesaid—may, under regulations fixed by the Fish and Game Commission, trap beaver on lands other than his own when the owner of such other lands secures a legal permit from the Fish and Game Commission for the killing of beaver which are actually doing damage to his land.

Sincerely yours,

JOHN W. BONNER  
Attorney General