

GAME AND FISH DEPARTMENT:

Who required to have
license to fish.

✓
See 8248-54 RS Mo 1929

7-11



July 11, 1933

Honorable John A. Eversole
Prosecuting Attorney
Potosi, Missouri

Dear Mr. Eversole:

We acknowledge receipt of your letter dated July 3, 1933, as follows:

"The local game warden has arrested two boys, 18 years of age and life long residents of St. Francois County, Missouri, for fishing in Washington County, Missouri without a fishing license to do so.

I am attempting to prosecute them under section 8254 Revised statutes of Missouri, for the year 1929. The more I read and study this section the more conflicting it seems to me and the more I doubt whether they have violated any law.

The case is set for trial July 22nd before a justice of the peace in this county. I wish you would give me your opinion on this matter before that time."

Section 8248 Revised Statutes Missouri 1929, provides as follows:

"It shall be unlawful for any person after the passage of this article to hunt or fish in this state without first obtaining a license permitting him or her to do so; such license shall be dated when issued and shall

authorize the person named therein to hunt and fish during the calendar year of issue, and then subject only to the regulations and restrictions as provided by law: Provided, no license shall be required to fish in privately owned lakes or ponds where a fee is charged for the privilege of fishing."

The above section was section 5598 Revised Statutes 1919, the latter being an amendment of Section 6574 Revised Statutes Missouri for 1909, the latter section being amended by the Laws of 1919 at page 346 so as to make it necessary to have a license to fish as well as to hunt.

Section 8254 Revised Statutes Missouri 1929, as amended by the Laws of 1925 at page 223, reads as follows:

"Resident licenses shall be issued as county resident licenses and state resident licenses. A county resident license shall entitle the holder to hunt and fish in the county wherein such license is issued and any adjoining county. A state resident license shall entitle the holder to hunt and fish in all counties in the State of Missouri. Any person who has been a bona fide resident of this state for six months last past may secure a license for himself or herself by filing his or her affidavit with any county clerk or the license collector of the city of St. Louis, stating his or her name, age, place of residence, post office address, the color of his or her hair and eyes, and the fact whether he or she can or cannot sign his or her own name, and paying to said clerk the sum of one dollar for license to hunt and fish in the county where he or she resides and any county adjoining same, or two and fifty one-hundredths dollars (\$2.50) for a state license: Provided, that this section shall not apply to owners and tenants of farm lands, used exclusively for agricultural purposes and members of their

families under the age of twenty-one years, who may hunt and fish on their own or leased lands, without obtaining a license: Provided, that no female nor minor who are resident citizens of this state shall be required to take out a fishing license; and provided further, that no person shall be required to take out a fishing license to fish in the waters within the boundaries of the county in which he resides; but nothing herein shall be so construed as to permit a person to fish in any county other than that in which he resides without first taking out a fishing license as provided in this article".

There is an apparent conflict between the two sections just quoted but since Section 8254 follows Section 8248 and particularly since Section 8254 was amended in its present form in 1925, we are of the opinion that Section 8254 was intended to qualify the provisions of Section 8248.

By virtue of the provisions of and exceptions in Section 8254 the owner or owners of and tenant or tenants on farm lands where such farm lands are used exclusively for agricultural purposes, are not required to secure licenses to hunt or fish on such lands and neither are the members of the respective families of such owner or owners or tenant or tenants, required to procure a license to hunt or fish on such land.

Under Section 8254 no female resident citizen of this state nor any minor whether male or female who is a resident citizen of this state, is required to procure or have a license to fish under any circumstances in this state.

Construing all of the parts and provisions of Section 8254 together we are of the opinion that no person, regardless of age or sex, is required to take out or procure a license to fish in the waters within the boundaries of the county in which such person resides.

We are therefore of the opinion that the prosecution mentioned in your letter can not be maintained

Honorable John A. Eversole

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for the reason that the defendants are minors and this applies regardless of the county of their residence or the county in which the fishing was done.

Very truly yours,

GILBERT LAMB
Assistant Attorney General,

APPROVED:

Acting Attorney General.

GL:LC