

GAME AND FISH DEPARTMENT:

What and when fish may be  
gigged or speared.

8270-71 RS Mo 1929



June 13, 1933

Honorable Peter M. Huck  
Prosecuting Attorney  
Ste. Genevieve, Missouri

Dear Mr. Huck:

This Department acknowledges receipt of your  
letter dated June 7, 1933, as follows:

"We are having some trouble with persons  
gigging fish in the night time, they  
generally use carbide lights fastened to  
their heads, as miners use while working  
underground, our game warden called up the  
Game and Fish Department a few days ago  
and he was referred to me as prosecuting  
attorney for information.

I find no law prohibiting the use of  
Carbide Lights in connection with catching  
fish, unless in the phrase of section  
8270 R. S. 1929 "device or any other means  
than by ordinary hook and line etc. in  
the 4th. line of said section in the  
Missouri Statutes Annotated, at page  
4097.

Will you be kind enough to give us your  
opinion on the above and oblige."

Section 8270 Revised Statutes Missouri 1929,  
reads in part as follows:

"It shall be unlawful for any person or persons to take, catch, or kill, any fish in any of the waters of this state, by means of any trammel net, gill net, fish trap, firearm, rifle or gun or any other kind of net, trap, firearm, device or any other means other than by ordinary hook and line, gig, spear, trot line, artificial bait, or seine, of the kind and at the time, and in the manner permitted by law \* \* \*".

Then follows certain designated species of fish which can not be taken, caught or killed or possessed by any means whatsoever between certain specified dates, except that artificially propagated trout may be held in captivity and sold during the above designated and prohibited periods.

The foregoing section expressly recognizes the right to take, catch or kill fish with gig or spear.

Section 8271 as amended by Laws 1931, page 226, makes it unlawful for any person to take, catch or kill, or attempt to take, catch or kill, in the waters of this state, or to have in possession when so taken, caught or killed, any game fish with a gig, spear, snare, snag line or grab hooks. It being further provided in the amended Section 8271 that non-game fish shall not be so taken, caught or killed during the months of February, March, April and May of any year nor shall any one person so take, catch or kill to exceed twenty-five pounds of non-game fish in any one day allowing, however, for the weight of one fish not to be counted when calculating the permitted twenty-five pounds. It being further provided in the amended Section 8271 that gar may be lawfully killed at any time. It being further provided in the amended Section 8271 that it is unlawful for any person, firm or corporation to catch, kill, take, ship, convey or transport or cause to be so done, any species of game fish taken from the waters of this state for commercial purposes. The term "game fish" is defined by Section 8275.

By amended Section 8271, under no circumstances, and at no time can game fish, as defined in Section 8275, be taken, caught or killed in the waters of this state with a gig, spear, snare, snag line or grab hooks nor can game fish be possessed after having been so taken, caught or killed. Non-game fish may be taken, caught or killed with a gig, spear, snare, snag line or grab hook during

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the months of January, June, July, August, September, October, November and December. No person is permitted to take, catch or kill non-game fish with a gig, spear, snare, snag line or grab hooks in excess of twenty-five pounds in one day, except that the weight of one fish may be excluded from the aggregate in making the permitted twenty-five pounds. Game fish can not be caught, killed, taken, shipped, conveyed or transported, nor may the same be caused to be done, by any manner or means from the waters of this state when such fish are used or are to be used for commercial purposes. The term commercial purposes as used in amended Section 8271 meaning, generally, for sale or barter in any manner or form.

Answering your letter then we are of the opinion that at no time and under no circumstances can what is known as "game fish", be taken, caught or killed in the waters of this state with a gig, spear, snare, snag line or grab hooks and it is unlawful to possess such fish when so taken, caught or killed; that non-game fish may be taken, caught or killed in the waters of this state with a gig, spear, snare, snag line or grab hook, whether in the night time or daytime and with or without the use of carbide lights, during the months of January, June, July, August, September, October, November and December of any year, up to and including twenty-five pounds of non-game fish in any one day, allowing for one fish the weight of which is not to be included in ascertaining the permitted twenty-five pounds and except that it is lawful to kill gar at any time.

Very truly yours,

GILBERT LAMB  
Assistant Attorney General,

APPROVED:

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ROY McKITTRICK  
Attorney General.

GL:LC