

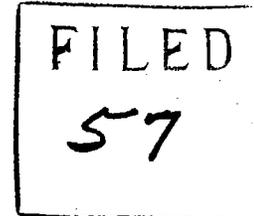
CONSERVATION COMMISSION:
FISH AND GAME:
LICENSES:

The Missouri Conservation Commission has the authority to regulate the method and manner of taking predatory animals and that Rule IV, Section 4.10 of the Wildlife Code of Missouri, 1969, is a lawful exercise of that authority.

November 6, 1969

OPINION NO. 57

Honorable A. F. Turner
Prosecuting Attorney
Wright County
Mountain Grove National Bank Building
Post Office Box 110
Mountain Grove, Missouri 65711



Dear Mr. Turner:

On July 30, 1968, this office received an opinion request from you as follows:

"We have had several requests from coyote and wolf hunters as to their coming under the law with regard to weapons. They wonder if they have to like other hunters do, since they are hunting predators, they wonder if they cannot have their guns loaded.

"We would appreciate you letting us know if you feel under the applicable laws and regulations of the Conservation Commission that it is necessary that these weapons be plugged."

On September 24, 1953, this office issued an opinion which stated in part the following conclusion:

". . . it is, . . . the opinion of this office that Rule 14 of the Wildlife Code in assuming to limit the means whereby predators of game wildlife in this State may be killed is in excess of the authority of the Commission under said Section 40 (a) and is, therefore,

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null and void, and that under Chapter 279 of the Revised Statutes of Mo., 1949, relating to bounties on wolves such species of unprotected wildlife may be taken by any means desired, including the use of poisonous gas, and the County Courts of the several counties of this State are required to pay bounties on wolves and wildcats killed by means of poisonous gas."

This opinion, in effect, concluded the Conservation Commission had no power to regulate the method of killing predators. Under this authority, the answer to your request would be that persons hunting predators do not have to plug their weapon. This office has, however, concluded that Opinion No. 99 issued on September 24, 1953, should be and is hereby withdrawn.

Article IV, §40(a) of the Missouri Constitution provides in part as follows:

"The control, management, restoration, conservation and regulation of the bird, fish, game, forestry and all wildlife resources of the state, including hatcheries, sanctuaries, refuges, reservations and all other property owned, acquired or used for such purposes and the acquisition and establishment thereof, and the administration of all laws pertaining thereto, shall be vested in a conservation commission"

Section 252.020, RSMo 1959, defines subjects relating to the Conservation Commission authority over "wildlife". Subsection 3 of 252.020, RSMo reads as follows:

"The words 'wild life' shall mean and include all wild birds, mammals, fish and other aquatic and amphibious forms, and all other wild animals, regardless of classification, whether resident, migratory or imported, protected or unprotected, dead or alive; and shall extend to and include any and every part of any individual species of wild life."

The Constitution of Missouri places the "control" of all "wildlife resources of the state" in the hands of the Conservation Commission and the legislature has defined "wild life" to include all "wild animals, regardless of classification, . . . protected or unprotected, dead or alive" including "any and every part of any individual species of wild life". It is our opinion that this definition includes

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predators and thus gives the Conservation Commission the authority to regulate the taking of predators.

Rule IV, Section 4.10 of the Wildlife Code of Missouri, 1969, defines the firearms limitations when the firearm is being used for hunting certain wildlife. It is the opinion of this office that persons hunting predators are bound to comply with this section.

CONCLUSION

It is the opinion of this office that the Missouri Conservation Commission has the authority to regulate the method and manner of taking predatory animals and that Rule IV, Section 4.10 of the Wildlife Code of Missouri, 1969, is a lawful exercise of that authority.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Alfred C. Sikes.

Yours very truly,



JOHN C. DANFORTH
Attorney General