

Opinion No. 47-5017

May 5, 1947

BY: C. C. McCULLOH, Attorney General

TO: Elliott S. Barker State Game Warden Department of Game and Fish Santa Fe, New Mexico

{*41} You have asked this office for an opinion as to whether you, as State Game Warden, or the State Game Commission has authority to waive the requiring of a fishing license for such groups as Boy Scouts.

Chapter 47 of the Laws of 1947, which is the licensing provision of the Fish and Game Laws now in force, provides, in part, as follows:

"It shall be unlawful for any person except children under the age of 14 years to take any game fish from any public stream or water in this state without having in his possession and on his person, a fishing license as herein provided. "The presence of any person except children under the age of 14 years, along any public stream or water in this state with fishing rod, hook, or line, without having in his possession, and on his person, such license, shall be prima facie evidence of the violation of this section. The state game warden or any deputy game warden shall have the right to require of any person so along any public stream or water in the state with fishing rod, hook, or line, the production and exhibit to him of such license."

Nowhere in this statute is authority given to the Game Warden, the Game Commission or any other person to waive this requirement.

It is therefore my opinion that the provision of the law requiring all persons over the age of 14 years to have in their possession fishing licenses, is mandatory and that neither you, the Game Commission or any other person has authority to waive the same.

By ROBT. W. WARD,

Asst. Atty. General