

## Opinion No. 35-923

March 2, 1935

**BY:** FRANK H. PATTON, Attorney General

**TO:** Mr. Elliot Barker, State Game Warden, Santa Fe, New Mexico.

{\*49} This will acknowledge receipt of your letter of March 2nd in which you ask the opinion of this office as to whether or not under the {\*50} authority granted the State Game Commission by Chapter 117 of the Laws of 1931 the Commission can establish a longer fishing season than April 1 to November 30 in lakes over ten (10) square miles in view of the subsequent Act of the Twelfth Legislature as embodied in Senate Bill No. 136.

The Legislature by Chapter 117 of the Laws of 1931 delegated to the State Game Commission broad powers, among which Section 3, Sub-section (b) is:

"To establish open and closed seasons for the killing or taking of all kinds of game animals, game birds and game fish, and to change such open seasons from year to year, and to fix different seasons for different parts of the state."

Under this authority so granted, the Commission undoubtedly had the power to establish or fix the open fishing season in the waters in question for whatever length of time they might see fit. The Legislature, however, after granting such power to the Commission necessarily has the right at any time to take this power away from the Commission or to take any part of it and to exercise such powers itself. It seems to us that this is what the Legislature has done in its passage of Senate Bill No. 136. In other words, it has taken back unto itself the regulation of catching game fish in lakes or reservoirs not less than ten (10) square miles in extent.

It is a primary rule of statutory construction and interpretation to find the intent of the Legislature. Lewis' Southerland Statutory Construction, Vol. 2, Sec. 364. Our constitution provides that the purpose of all bills be expressed in the title to the bill so in determining the intent of the Legislature in passing Senate Bill No. 136 we may look to the title of this Act as well as to the body of the Act. The title reads as follows: "An Act to Regulate the Catching of **Game and Fish** in Certain Waters." (The title probably was intended to read "Game Fish" instead of "Game and Fish.") Thus the intention of the Legislature as expressed in the Act as a whole was evidently to take away from the Game Commission the power to regulate the fishing season on these certain waters. In our opinion it follows from this construction that the State Game Commission now has no right to vary or change the time of the fishing season in these certain waters from the times expressed in Senate Bill 136 and can not create an open season either earlier or later than April 1 to November 30 in these waters.

From this construction it is unnecessary for us to answer your second question as to whether or not the Commission may issue the fifteen day licenses provided for in Section 2 of Senate Bill 136 for periods other than April 1 to November 30.

By: J. R. MODRALL,

Asst. Atty. General