

# UNIFORM GAME LAWS, INTERPRETATIONS AND ENFORCEMENT

By F. H. DAVIS

*Regional Supervisor, Branch of Management and Enforcement  
U. S. Fish and Wildlife Service  
Minneapolis, Minnesota*

Over the years the International Association of Game, Fish and Conservation Commissioners has taken the lead in proposing constructive conservation legislation.

In the matter of uniform game laws, the records of the twenty-eighth annual convention of the International held in Montreal, Canada, in September 1934 reveals that the Association adopted a model state game and fish administrative law. It was apparently a good model and quite a few states adopted this type of administrative law. Others had to settle for parts of it.

Obviously, it would be impossible to develop a uniform set of game laws that would apply equally to all the states in the nation. But it would seem possible that basic laws governing the manner of taking game and fish might be more uniform.

We hear much comment from the public engaged in the activity of hunting, fishing and other outdoor recreation, regarding simplification of game, fish and other conservation laws. If one reviews the basic State regulations governing the taking, possession and transportation of legally taken game, fish and furs, it will become evident that there is not much uniformity between the various states. As an example, the center of the thread of a river serving as a boundary between States, determines which State regulations apply. All sorts of fishing gear, legal on one side of the river may be illegal on the opposite side of the center of the channel. The fish being taken may be in one state one day and in another state the next day, or the next hour. Why shouldn't uniform regulations covering types of gear, manner of taking, size, kind and creel limits be agreed upon on boundary waters in the taking of fish?

If it is not good business to shoot deer with a 25:20 caliber rifle in one state due to insufficient shocking power of the cartridge, it would seem that it would not be any better in another; however, if one checks over the caliber of firearms that are outlawed for deer hunting in various states, they vary considerably. It is understandable that in the hunting of deer there should be a designation of shotguns with slugs as against high-powered rifles depending upon the type of country concerned and density of population. It would seem, however, that a uniform minimum standard could be agreed upon, at least as far as rifles are concerned.

There is even a wide variance on the specifications of a long bow and arrows that may be used to hunt deer in various states.

Probably the regulation that could and should be uniform, if for no other reason than for the safety of the person carrying the gun, is the one which regulates the transportation of firearms in motor vehicles. Some states permit carrying loaded and assembled guns in motor vehicles, whether on the highway or in a field. Others permit the same thing except the gun must be unloaded in the barrel; others require the firearm to be unloaded in both magazine and barrel only on the highway; while other states require the gun to be cased; others require the gun to be unloaded and contained in a case or broken down while being transported in a motor vehicle. Some states regulate the transportation of firearms in a motor boat requiring that they be cased and unloaded in both barrel and magazine or broken down. It can be said that this law is strictly for the safety of the individual concerned, yet there is a great deal of variation throughout the states in this regulation.

Some states have legalized the use of handguns in the taking of small game and upland game birds. Other states do not permit this.

We still find some states that permit the use of live decoys, or bait in the taking of migratory game birds. Some states have no requirement relative to plugged guns or duck stamp in the taking of migratory game birds and water-

fowl. Enforcement could be simplified considerably if those states were able to conform to the Federal regulations governing these particular requirements.

The fur industry is another field in which uniformity of regulations might be considered. The keeping of accurate records in this business is extremely important. Some states have excellent fur laws which permit the officers of the Department concerned to detect illegal operations. This is important if we are to receive the greatest value of the provisions of the Federal Lacey Act and related regulations.

It would seem that a uniform law might be developed for the transportation and shipment of game birds and animals, both within and out of the state. The storage and possession of game birds and animals legally taken is another field where some sort of uniform regulation might be developed.

Uniform laws regulating the operations of commercial shooting clubs that shoot both upland and migratory game birds under permit is another field in which some progress should be made.

Uniform requirements relative to the securing of resident and non-resident hunting and fishing licenses would appear to be a good constructive move. We as Federal officers working in many states throughout the entire United States are, no doubt, more aware of these inconsistencies than the average individual. It would seem that much public support for game law enforcement might be developed by concerted action in this field.

State Highway Departments are taking the lead in this field and each year we see more uniform traffic laws between the states. Witness the point system now being developed for traffic violations where a traffic violator loses a definite number of points from his driver's license even though he may be convicted of a traffic violation in some other state than the one which issued the license.

So far I have mentioned a few fields in which some thought might be given toward uniform regulations among states. Would it not be feasible for some organization to undertake the task of preparing a uniform set of laws dealing with the basic principles of taking fur, fish and game?

You will note that I have taken the liberty of expanding on my assigned subject somewhat and the subject of my paper now reads, "Uniform Game Laws, Interpretations and Enforcement."

Generally, little has been said about uniform interpretation and enforcement of existing laws or regulations. As a result, in some instances a general disregard for law observance has been engendered, and make no mistake, failure to enforce any law only breeds contempt for law enforcement generally.

To my way of thinking (and incidentally this is my personal viewpoint) if a law is on the statute books or a regulation has been enacted into law, it should be strictly interpreted, and enforced vigorously. This is the only way in which uniform enforcement may be attained. After the law or regulation once becomes effective, it is not for the enforcement officer to say whether it is a good law or a bad law, it is his duty to enforce the law. He took an oath of office to uphold and enforce the laws and regulations, and he should be encouraged to do this. If a law or regulation does not accomplish what it was designed to do, it should be removed from statute books immediately. Leaving a law in effect and not enforcing it only de-emphasizes the importance of other laws.

The enforcement officer takes an oath to uphold the laws and enforce them without fear or favor. Unless we interpret the existing laws and regulations strictly and instruct that officer to enforce them vigorously, we are selling him down the river. We cannot long live with double standards in the business of law enforcement.

Asking the enforcement officer to be a judge and jury in the field places him in a very vulnerable position, and we should not ask him to serve in that capacity. There is no such thing as violating a law just a little bit. One either violates the law or does not violate the law. If the law has been violated the defendant should be apprehended and taken before a court of competent jurisdiction. It is not for the officer in the field to determine what degree of guilt is involved. It is a job for the judge or jury to determine the degree of guilt and whether the act or violation was accidental or intentional, and our courts have been constituted on that basis.

For all practical purposes, the enforcement officer's duty is finished when all the evidence has been presented to the court. If the evidence is not sufficient, the court may dismiss the action or upon conviction impose a just penalty which is commensurate with the crime. This is the court's responsibility and duty and such responsibility should not be usurped by the enforcement officer.

In closing, let me tell you something that you already know: Game law enforcement is a complex and technical work. It requires the services of personnel with high standards of courage, integrity, initiative and, above all, extremely good judgment.

We can do much to assist our law enforcement officers to do a better job if we encourage and obtain uniform interpretation and enforcement of the laws and regulations with which we are concerned. And in the process we will be serving better our constituents—the American sportsman who looks to us to preserve our wildlife heritage through just and simple game laws, vigorously and uniformly enforced.

## THE PRACTICAL PROSECUTION OF GAME LAW VIOLATIONS

By HON. JAMES H. HALL  
*Judge of Oldham County*  
LaGrange, Kentucky

One of the important phases of game management is game protection. Without it all of your efforts are in vain.

Good and efficient game protection is not easy, remember that laws and regulations for the protection of game are relatively new in our system of jurisprudence when compared to most of our basic penal laws. It has only been a few generations since laws for the protection of game have become necessary in this country and with the rapid growth of our population and the depletion of our game and habitat we find ourselves faced with the difficulty of efficient enforcement among a populace not completely concerned or sympathetic.

Experience leads me to believe that a substantial portion of our good citizens will violate a game or fish law or regulation that would not think of violating other laws.

That a substantial portion regard violation of a game and fish law by others less seriously than they do other laws.

No law can be satisfactorily enforced without overwhelming public approval and demand. For instance national prohibition—even the federal government with all of its resources could not do the job. The only reason the various offenses of homicide and larceny are reasonably enforced is because there is practically no one who is in favor of the practice.

And, of course, there is that human trait so commonly present that laws should be enforced as to others but not against ourselves.

These conditions coupled with the practical difficulties of apprehension of the game law violator, the size and remoteness of the area to be policed, and the usual inadequate resources to provide adequate personnel and equipment, combine to make your enforcement problems more difficult than in other phases of law enforcement. So it behooves you to make the most of what you have to effect convictions. It will be my purpose to impart to you something of value in the practical prosecution of court cases, whether you are directly or indirectly involved.

Remember from the very first you are on the short end of the stick. A properly authorized officer only may make the arrest. Few game and fish violations are punishable by confinement in a state penitentiary. Therefore, they are mainly in the class of crimes known as misdemeanors and citizens' arrests are not permitted. If a citizen witnesses or has knowledge of such a violation, in order to prosecute he must first obtain from a properly authorized officer a warrant for the arrest of the offender, upon a sworn affidavit left on file and