



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Parks E. McMichael
County Attorney
Cass County
Linden, Texas

Dear Sir:

Opinion No. 0-2655

Re: Does the described use of
a trammel net violate the
fish laws of Texas?

This is to acknowledge receipt of your letter of
recent date, from which we quote:

"A group of persons stretch a lawful tram-
mel net around a tree top in a public fresh wa-
ter stream in Cass County, Texas, during open
netting season and by the use of boats, oars
and splashing water run buffalo and cat fish in-
to the net where the fish are caught. Not for
purpose of sale.

"Is the above act in violation of the fish
laws of Texas?"

By the terms of H. B. 99, Acts of the Forty-first
Legislature at its fifth called session, chapter 27, page
189, (Vernon's Annotated Criminal Statutes, Art. 952aa-3), it
is provided:

"It shall be unlawful for any person to
take or catch any fish in the public fresh wa-
ters, creeks, lakes, bayous, pools, lagoons
or tanks in the Counties of Cass, Bowie, Mor-
ris and Titus, State of Texas, by any other

means than by the ordinary hook and line, set hook and line, gig or artificial bait, and it shall be unlawful for any person to place in the public fresh water rivers, creeks, lakes, bayous, pools, lagoons, or tanks in the counties of Cass, Bowie, Morris and Titus any seine, net or other device or trap for taking or catching fish; provided, however, that persons may use a minnow seine which is not more than twenty feet in length for the purpose of catching minnows for bait; provided, that in seining for minnows for bait as herein permitted, all fish and all minnows more than two and one-half inches in length shall be returned to the water at once while alive. No person shall use the minnow seine herein permitted for the purpose of taking any fish other than minnows for bait; provided, however, that nothing in this Act shall be construed to prevent the taking or catching of buffalo, carp and catfish by the use of a hoop, trammel or gill set with meshes not less than three inches square in the fresh waters of Cass, Bowie, Morris and Titus Counties, State of Texas, save and except during the months of March and April of each year, and provided, further, that pond nets are hereby entirely prohibited.

"Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not less than Ten (\$10.00) Dollars nor more than one Hundred (\$100.00) Dollars. All laws and parts of laws in conflict herewith are hereby repealed."

Article 924 of the Penal Code reads as follows:

"It shall be unlawful for any person to place in any of the waters of this State any poison, lime, dynamite, nitroglycerin, giant powder or other explosives or to place in such waters any drugs, substances or things deleterious to fish life for the purpose of catching or attempting to catch fish by the use of such substances or things, or for any other purpose whatsoever, provided however that in event it becomes necessary to place any explosive in waters in connection with construction work, same

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may be authorized by written order of the County Judge of the County where the work is to be done.

"Any one violating any provision of this Act shall be deemed guilty of a misdemeanor and on conviction shall be fined not less than Fifty Dollars (\$50.00), nor more than One Hundred Dollars (\$100), and shall serve a sentence in the county jail of not less than sixty (60) days, nor more than ninety (90) days."

In applying the above statutes, we perceive no violation in the facts as presented by you. We wish to thank you for citing the applicable articles of the Code.

Yours very truly

APPROVED AUG 30, 1940

ATTORNEY GENERAL OF TEXAS

Grover Sellers

(Signed)
FIRST ASSISTANT
ATTORNEY GENERAL

By

(Signed)
Benjamin Woodall
Assistant

BW:ew

APPROVED OPINION COMMITTEE

BY BWB
Chairman