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March 17, 1972

FILE NO. S-433

**CONSERVATION:**  
**Taking or Possession of Deer**

Honorable Louis A. McLaughlin  
State's Attorney of Fayette County  
Courthouse  
Vandalia, Illinois 62471

Dear Mr. McLaughlin:

I have your letter of recent date wherein you state:

"I would appreciate your opinion on the following provision of the Game Code.

Chapter 61, Paragraph 172.02, Illinois Revised Statutes, provides as follows:

'It is unlawful for any person to take or have in his possession more than one deer in any of the bow and arrow or gun seasons established from October 1 of one year to October 1 of the following year.'

The Department of Conservation, as authorized by Chapter 61, Paragraph 172.01, has issued an adminis-

trative order which provides as follows:

Paragraph A. '1971 official seasons for the taking of deer by use of shotgun loaded with rifled slugs and with muzzle-loading rifles as defined by this order in the following counties shall be: the first three-day period November 19, 20 and 21, and the second three-day period December 10, 11 and 12.'

The administrative order further provides:

Sub-paragraph F. 'It is unlawful for any person to take or have in his possession more than one deer in any period from October 1 of one year to October 1 of the following year.'

My question is, would it be lawful for a hunter to have in his possession one deer which was taken in the first three-day period of November 19, 20 and 21 and to also have an additional deer in his possession which was taken in the second three-day period, December 10, 11 and 12, or is the hunter limited to one deer during the entire calendar year?"

Game laws are generally, if not universally, framed with reference to protecting the game from indiscriminate and unreasonable havoc, leaving all persons free to take game under certain restrictions as to the season of the year and the means of capture. Commonwealth vs. Worth 23 NE 2d 891, 304 Mass. 313, 125 ALR 1196.

Section 2 of the Game Code of Illinois (Ill. Rev. Stats. 1971, ch. 61, par. 136) provides for the administration of the Code by the Department of Conservation and authorizes the Department, by Administrative Order, to establish seasons and bag limits.

This Game Code has been in effect in Illinois since July 16, 1941, and has undergone innumerable legislative amendments up to and including the current legislature.

The Department of Conservation, in conformity with its legislative authority, annually publishes Administrative Orders establishing areas, season limits, possession limits and daily bag limits for each species of game. In 1971, the Administrative Order relative to the taking of deer by use of shotgun rifled slugs and with muzzle-loading rifles established two three-day periods for the taking of deer.

Since 1941 these Administrative Orders and interpretations of the above statute has allowed only one deer taken by any means from October 1st of one year to October 1st of the following year.

In the case of Chicago Title and Trust Company vs. Central Republic Trust Company, 299 Ill. App. 483, 20 NE 2d 351,

the Court said:

"In doubtful cases of statutory construction where the enforcement of the statute has been placed in some department of the government, the interpretation adopted by that department is given much weight and will usually be adopted by the court."

In this regard also see the cases of Mississippi River Fuel Corporation vs. Illinois Commerce Commission, 1 Ill. 2d 509, 116 NE 2d 394, Mutual Life Insurance Company of New York vs. Weinberg, 319 Ill. App. 177, 49 NE 2d 44, pertaining to the contemporaneous construction of a statute and the executive or administrative construction of a statute in cases where ambiguity exists in the statutory language.

In the case of O'Brien vs. City of Chicago, 347 Ill. App. 45, 105 NE 2d 917, the Court said:

"\* \* \* Long continued, uniform construction of a statute by executive officers must be accorded great weight by the judiciary in interpreting such statutes unless a contrary interpretation is clearly required by words of the statute. \* \* \*"

Honorable Louis A. McLaughlin

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The legislature has had many opportunities to express an intent contrary to that of the Department of Conservation, and not having done so, the administrative interpretation is to be considered correct.

It is, therefore, my opinion that only one deer may be in possession or be taken by any means from October 1st of one year to October 1st of the following year.

Very truly yours,

A T T O R N E Y G E N E R A L