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HUNTING AND FISHING



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Natural Resources Law

In common law, the title to and property of all species of wild game is declared to be vested in a sovereign state, but a statute is required if the state wishes to retain title thereto after the game is killed and in possession of hunters.

In relation to wild game, it is the state and not the U.S. which is the sovereign power and the state owns the fish and other species of wild game in its sovereign capacity as the representative of and for the benefit of all people in common.

It is recognized that animals *ferae naturae* [Legal Definition of *ferae naturae*: Animals like wild birds, deer, or fish are considered *ferae naturae* meaning they cannot be claimed as one's property except under certain circumstances, as when captured. They are not objects of private ownership, but rather belong to the state. The state, representing the people, has the authority to regulate or even prohibit the taking of animals *ferae naturae* if such action is deemed necessary for the public good.

Thus, a citizen has no private right to take fish or game, except as such right is either expressly or inferentially given by the state. The fish in the waters of the state and the game in its forests belong to the people of that state, in their sovereign capacity and through their elected legislature representatives have sole control thereof and may permit or prohibit their taking.

Wild game and fish belong to the state and are subject to its power to regulate and control; an individual may acquire only such limited or qualified property interest therein as the state chooses to permit.

So long as constitutional limitations are not infringed, the legislature may impose such terms and conditions as it sees fit on the acquiring of ownership of these wild animals.



The preservation of such animals, birds, and fish as are adapted to consumption as food, or to any other similar useful purpose, is a matter of public interest, and it is within the police power of the state as the representative of the people to make such laws as will best preserve such game and secure its future beneficial use to the citizens of the state.

When a person has a proper license, he or she is authorized to pursue, hunt, shoot and kill the game animal or animals authorized by the license held and to possess the dead bodies of game animals of the state which are so authorized by the regulation of the game commission.

A state may adopt any reasonable regulation not only as to time and manner in which such game may be taken and killed, but also may impose limitations upon the right of property in such game after it has been reduced to your possession.

Congress has expressly authorized the “regulated taking” of threatened species in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved. Also, regulating nonresident recreational hunters is a reasonable means of protecting a scarce natural resource.

Everything you need to know about hunting on public lands

Hunters have played a major role in the conservation of the nation’s wildlife resources since the late 19th century. American conservation giants like Theodore Roosevelt and Aldo Leopold were both avid sportsmen. Their passion for wildlife and hunting helped shape our nation’s wildlife management philosophy and public lands as we know them. By maintaining ethical traditions and respecting nature, sportsmen and women continue to be vital stewards of wildlife and habitat today.

What public lands can I hunt on?

America’s public lands offer unparalleled opportunities for hunting, allowing families the chance to pass down the nation’s rich hunting heritage. It was this hunting tradition that was the primary driver behind the creation of the National Wildlife Refuge System, which has set aside millions of acres of land for the conservation of all wildlife, while providing wildlife-dependent recreation like hunting and wildlife watching.

Today, there are 76 areas managed by the National Park Service, 336 national wildlife refuges and 36 wetland management districts managed by the U.S. Fish and Wildlife Service, and over 220 million acres of BLM-managed public lands. In addition to most Bureau of Reclamation lands that allow hunting in accordance with federal and state regulations and laws.

To ensure you are hunting in appropriate areas you will need to contact your public lands management office.

What types of animals can I hunt on America’s public lands?

Where allowed on America’s public lands, you can be assured of a quality hunt. From deer and waterfowl to turkey and feral hogs, there’s a range of permitted species to hunt on public lands. For those looking for a challenging big game hunt, public lands in Alaska are the place for you.

The harvesting of wildlife on public lands is carefully regulated to ensure an equilibrium between wildlife and their habitats. Each location, whether it’s a national preserve or wildlife refuge, decides the

species that you can hunt, and when and exactly where you can hunt them. These decisions factor in species' populations, economic feasibility, habitat feasibility, public safety and demand.

What should I know before hunting on public lands?

Before you set off on a hunting adventure on public lands, make sure you are prepared. Weather and conditions may change quickly, so pack accordingly. Pick up maps, and let others know where you will be, when you will be back and develop an emergency plan just in case.

While hunting, know your surroundings. Be on the lookout for other people and potential risks. Always be sure of your target and what is beyond. Make sure your equipment is in proper working condition to decrease risk of injury to yourself or others, or accidentally starting a fire on public lands.

Hunting safety classes are highly recommended and required in some states. Treat every gun as if it is loaded, and never point the muzzle of a firearm at anything you do not intend to shoot. Keep your finger off the trigger and out of the trigger guard until your sights are on the target and you are ready to shoot. Protect yourself by wearing proper hearing protection and safety glasses.

Do I need a license to hunt on public lands?

All hunters on public lands must have the required state license(s). That's because states are responsible for managing wildlife within their borders for the trust and benefit of their residents, even if the hunting occurs on federal lands.

If you hunt migratory waterfowl and you are 16 years of age or older, you need to purchase and carry a current Duck Stamp or E-Stamp.



Some public lands managed by Interior also require their own permits and/or user fees. You may also need to take a hunter education course. Of course, it's always essential to practice firearm safety and be equipped with proper gear. Check with the specific location before heading out for a hunt.

Whether you are a first-time hunter or a seasoned sportsman or woman, your public lands are some of the best places in the country for a hunt.

Do Game Wardens Have the Same Powers as Police Officers?

If you live in or have traveled to an area frequented by outdoor enthusiasts, you may come across a game warden, a local state or federal official tasked with enforcing the laws regarding hunting, fishing, and wildlife conservation. Below are frequently asked questions.

- What other powers do game wardens have?
- Are game warden's law enforcement powers limited to issuing citations for hunting out of season, or can they enforce other criminal laws such as DUI?
- Do game wardens have the same powers as police?

Can a Game Warden Arrest Me for DUI?

Although a game warden is generally concerned with enforcing laws regarding wildlife, in most states a game warden can, and will, cite you for violation of other laws, such as driving under the influence.

In most states wildlife department officers "have the same powers, privileges, and immunities as peace officers" and "have the same authority as a sheriff to arrest, serve criminal or civil process, and require aid in serving criminal or civil process coextensive with the boundaries of their state."

Game Wardens May Have Expanded Search Powers

In some instances, game wardens may actually have more power than police officers when it comes to warrantless searches of persons or vehicles.

Typically, police officers must have probable cause or consent to search a person or a vehicle without a warrant. A 2012 Supreme Court case found that even when a game warden lacks reasonable suspicion that a person has violated an applicable fish or game statute or regulation, they may still stop the suspect's vehicle and demand the suspect display any fish or game in the suspect's possession. So have a healthy legal respect for game wardens, or it may end up costing you.

Native American Rights

In the United States, persons of Native American descent occupy a unique legal position. On the one hand, they are U.S. citizens and are entitled to the same legal rights and protections under the Constitution that all other U.S. citizens enjoy. On the other hand, they are members of self-governing tribes whose existence far predates the arrival of Europeans on American shores.

These combined, and in many ways conflicting, legal positions have resulted in a complex relationship between Native American tribes and the federal government. Although the historic events and specific details of each tribe's situation vary considerably, the legal rights and status maintained by Native Americans are the result of their shared history of wrestling with the U.S.

government over such issues as tribal sovereignty, shifting government policies, treaties that were made and often broken, and conflicting latter-day interpretations of those treaties.

The result today is that although Native Americans enjoy the same legal rights as every other U.S. citizen, they also retain unique rights in such areas as hunting and fishing, water use, and Gaming operations. In general, these rights are based on the legal foundations of tribal sovereignty, treaty provisions, and the “reserved rights” doctrine, which holds that Native Americans retain all rights not explicitly abrogated in treaties or other legislation.

How do I get permission to hunt or fish on an Indian reservation?

Some tribes allow hunting and fishing by non-tribal members on their reservations, and some do not. It is a violation of federal law to hunt or fish on tribal lands without permission. Before hunting or fishing on an Indian reservation, contact the tribe for the necessary permits and rules and to determine whether non-tribal members are allowed access.

If I harvest game or fish on an Indian reservation what state rules apply when I leave tribal lands?

You must obtain an official record from the tribe showing the game or fish harvested, location of harvest, date of harvest, and authority given to you by the tribe to do so.

Deeded lands within an Indian Reservation owned by a non-tribal member are considered private property and not under the authority of the tribe, therefore state licenses, seasons, and limits generally apply unless some other arrangement has been formally reached with the tribe.



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WE THE PEOPLE
THE SECOND AMENDMENT.

*“The right of the people
to keep and bear arms
shall not be infringed.”*



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