



“Legal Set?”

“The questions and answers in “Legal Set?” are subject to change with revisions, additions, subtractions and/or changes to the applicable statutes or Division of Wildlife rules. The questions which are discussed may be broad, however each situation is unique and by adding/subtracting additional information the legality of it may change. For specific situations or unique circumstances, contact your local Wildlife Officer (last page of hunting/trapping regulations) or call 1-800-WILDLIFE.”

QUESTION 1

Are there new regulations for nuisance trapping?

YES, there are new regulations for “commercial nuisance wild animal control operators” and they became effective on 3/27/2013. These rules apply to anyone that provides nuisance wild animal control for hire. Information on becoming a commercial nuisance animal trapper can be obtained from the Division of Wildlife by calling 1-800-WILDLIFE or visiting the website at wildohio.com.

Following are the regulations found in Ohio Revised Code 1531.40:

1531.40 Nuisance wild animal removal or control services; license.

(A) As used in this section:

- (1) "Nuisance wild animal" means a wild animal that interferes with the use or enjoyment of property, is causing a threat to public safety, or may cause damage or harm to a structure, property, or person.
- (2) "Commercial nuisance wild animal control operator" means an individual or business that provides nuisance wild animal removal or control services for hire to the owner, the operator, or the owner's or operator's authorized agent of property or a structure.

(B)

- (1) No person shall provide nuisance wild animal removal or control services for hire without obtaining a license under this section from the chief of the division of wildlife.
- (2) An applicant shall pay a license fee of forty dollars for the license. The license shall be renewed annually prior to the first day of March and shall expire on the last day of February. All money collected under this division shall be deposited in the state treasury to the credit of the wildlife fund created in section [1531.17](#) of the Revised Code.
- (3) An individual who is providing nuisance wild animal removal or control services for hire under a license issued under this section is exempt from obtaining a hunting license under section [1533.10](#) of the Revised Code, a fur taker permit under section [1533.111](#) of the Revised Code, or a fishing license under section [1533.32](#) of the Revised Code for the purposes of performing those services.
- (4) An individual who is employed by the state, a county, or a municipal corporation and who performs nuisance wild animal removal or control services on land that is owned by the state, county, or municipal corporation, as applicable, as part of the individual's employment is exempt from obtaining a license under this section.

(C)

- (1) Unless otherwise specified by division rule, a commercial nuisance wild animal control operator and any individual who is employed by an operator that is engaged in activities that are part of or related to the removal or control of nuisance wild animals, including setting or maintaining traps, shall obtain a certification of completion of a course of instruction that complies with rules adopted under division (F) of this section. A certification shall be renewed every three years.
- (2) An individual who provides nuisance wild animal removal or control services under a license issued under this section shall comply with division (C)(1) of this section.
- (D) An operator that holds a license issued under this section is responsible for the acts of each of the operator's employees in the removal or control of a nuisance wild animal.
- (E) If an individual who is licensed under this section uses a pesticide in the removal or control of a nuisance wild animal, the individual shall obtain the appropriate license under Chapter 921. of the Revised Code.
- (F) The chief shall adopt rules under section [1531.10](#) of the Revised Code establishing all of the following:
 - (1) Appropriate methods for trapping, capturing, removing, relocating, and controlling nuisance wild animals by operators licensed under this section;
 - (2) Procedures for issuing, denying, suspending, and revoking a license under this section;
 - (3) Requirements governing the certification course required by division (C)(1) of this section. The rules shall specify the minimum contents of such a course, including public safety and health, animal life history, the use of nuisance wild animal removal and control devices, and the laws and rules governing those activities. The rules also shall specify who may conduct such a course. The rules shall require that, in order for an operator to receive a certification of completion, the operator shall pass an examination.
 - (4) Any other requirements and procedures necessary to administer and enforce this section.

Rules shall be adopted under division (F) of this section only with the approval of the director of natural resources.

- (G) In accordance with Chapter 119. of the Revised Code and with rules adopted under this section, the chief may suspend or revoke a license issued under this section if the chief finds that the holder of the license is violating or has violated this chapter, Chapter 1533. of the Revised Code, or rules adopted under those chapters.

QUESTION 2

Am I still allowed to nuisance trap for my friend/neighbor, or do I have to get the new license?

DEPENDS, If you are going to trap “for free” you can still nuisance trap for your friend or neighbor under Ohio Administrative Code 1501:31-15-03. However, you would need to obtain a license and become a commercial nuisance wild animal control operator if you receive any type of = “payment of money, or exchange of material goods or services”. This could include gas money, sweet corn, trading a fishing charter, firewood and/or any type of payment, trade or barter.

The allowance of nuisance trapping “for free” is allowed under OAC 1501:31-15-03 - (A) (1) and (A) (2). *Note: Underlined below.*

QUESTION 3

If I am nuisance trapping “for free” and do not possess the license as a commercial nuisance wild animal control operator:

Can I use the larger sized traps that license holders can use?

Can I use snares that are spring assisted?

NO, and NO.

For traps, only a licensed commercial nuisance wild animal control operator can use footholds larger than 5 5/8 inches up to 6 inches. In regards to body gripping traps, only the licensed commercial nuisance wild animal control operator can use between 5 inches up to 6 inches on dry land.

For snares, only a licensed commercial nuisance wild animal control operator can use a snare with a spring loaded, spring assisted or mechanical device on the snare to assist a snare in capturing or closing around a nuisance wild animal.

The regulations for nuisance trapping are found in OAC 1501:31-15-03. *The specific sections for this question are underlined below.*

1501:31-15-03 Nuisance wild animal control.

(A) General

(1) It shall be lawful for any person to trap or take live, nuisance wild animals. It shall be unlawful for any person to trap or take nuisance wild animals, except as provided in this rule.

(2) It shall be unlawful for any person who traps or takes a nuisance wild animal in accordance with paragraph (A) of this rule, who is not a licensed commercial nuisance wild animal control operator to charge a fee or receive compensation. For the purposes of this rule a fee or compensation shall be considered a requested or required payment of money, or exchange of material goods or services.

(3) It shall be unlawful for any person who is not a licensed commercial nuisance wild animal control operator to sell, use, or give to another person any live nuisance wild animal trapped or taken for removal in accordance with paragraph (A) of this rule. Nuisance wild animals may be transferred to another for disposition in accordance with this rule.

(4) It shall be unlawful for any person to trap or take nuisance wild animals on the lands of another without first obtaining permission from the owner or their authorized agent.

(5) It shall be unlawful for any person who is not a licensed commercial nuisance wild animal control operator to possess such trapped or taken nuisance wild animals longer than twenty-four hours from the time of capture.

(6) *It shall be unlawful to fail to euthanize nuisance wild animals trapped or taken whose injuries affect normal biological or physiological functions.*

(B) Commercial nuisance wild animal control operator

(1) Notwithstanding any other provision in this rule, it shall be lawful for any person applying for and receiving a commercial nuisance wild animal control operator's license, and any person acting under the authority of a commercial nuisance wild animal control operator's license, to trap or take nuisance wild animals. Such trapping or taking shall be in accordance with the following provisions:

(a) It shall be unlawful to possess for more than four days any live nuisance wild animals trapped or taken under the authority of a commercial nuisance wild animal control operator's license.

(b) It shall be unlawful to sell any nuisance wild animals trapped or taken under the authority of a commercial nuisance wild animal control operator license. Except, carcasses or parts not to include hides, of the following nuisance wild animals may be sold:

(i) Raccoon, (ii) Opossum, (iii) Beaver, (iv) Muskrat, (v) Red or gray fox, (vi) Coyote, (vii) Skunk, (viii) Woodchuck or groundhog, (ix) Mink.

(c) It shall be unlawful to sell hides of furbearing animals taken under the authority of a commercial nuisance wild animal control operator's license, except those acquired during the open season as specified under rule 1501:31-15-17 of the Administrative Code may be held and sold from the first day of the respective open season through June fifteenth of the following year.

(d) It shall be lawful to sell hides and tails of red, gray and fox squirrels trapped or taken under the authority of a commercial nuisance wild animal control operator license.

(C) Monitoring Traps, Snares or other devices

(1) It shall be unlawful for any person to fail to monitor traps, snares or any other device used to take or capture nuisance wild animals, and remove all animals from their traps, snares or other devices once every calendar day, except:

(a) It shall be unlawful for any person engaged in trapping muskrats, beaver or river otters under ice to fail to monitor and remove all animals from their traps or snares at least once in every seventy-two hour period.

(b) Traps or other devices used for control of nuisance rats, mice, moles, shrews or voles are exempt from trap monitoring requirements.

(2) It shall be unlawful for any person to disturb or molest a legally set trap, snare, or other device used to take or capture nuisance wild animals or remove any nuisance wild animal from a trap or snare of another without permission from the trap, snare or device owner or user.

(D) Identification of traps, snares or other unattended devices

(1) Unless otherwise specified, it shall be unlawful for any person to set, use, or maintain a trap, snare or other device, used to take a nuisance wild animal, unless such trap, snare or other device:

(a) Has attached thereto a durable, waterproof tag, written in English letters, legible at all times, identifying the owner or user by one of the following means:

(i) Name and mailing address,

(ii) Unique division of wildlife customer identification number,

(iii) Unique division of wildlife commercial nuisance wild animal control operator's license number, or

(b) Has stamped into or is permanently marked with information written in English letters, legible at all times, identifying the owner or use by one of the following means:

(i) Name and mailing address,

(ii) Unique division of wildlife customer identification number,

(iii) Unique division of wildlife commercial nuisance wild animal control operator's license number.

*(c) Traps or devices used to take moles, shrews, voles or house mouse (*Mus musculus*), Norway rat (*Rattus norvegicus*) or roof rat (*Rattus rattus*) are not required to be marked.*

(E) Trapping

(1) For the purposes of this rule, traps shall be measured in the open set position, from the inside of the main trap jaws as produced by the manufacturer and shall not include jaw modifications or add-ons.

(a) Foothold traps. For the purposes of this rule, measurement of foot hold traps shall be made perpendicular to the frame at the widest location parallel with the dog. Measurement of foot hold traps without dogs shall be made perpendicular to the frame at the widest location parallel with the pan shank.

(i) It shall be unlawful for any person other than a licensed commercial nuisance wild animal control operator to set, use, or maintain a foot hold trap, on land for the purpose of taking a nuisance wild animal, that has an inside diameter jaw spread larger than five and five-eighths inches.

(ii) It shall be unlawful for any licensed commercial nuisance wild animal control operator to set, use, or maintain a foot hold trap, on land for the purpose of taking a nuisance wild animal, that has an inside diameter jaw spread larger than six inches.

(b) Body gripping traps. For the purposes of this rule, body gripping traps shall be measured from the inside of the main jaw at the trigger assembly to the inside of the opposing jaw across the entrance window.

(i) It shall be unlawful for any person other than a licensed commercial nuisance wild animal control operator to set, use, or maintain a body gripping trap, on land for the purpose of taking a nuisance wild animal, that has an inside diameter jaw spread larger than five inches in diameter, except as provided in paragraph (H) of this rule.

(ii) It shall be unlawful for any licensed commercial nuisance wild animal control operator to set, use, or maintain a body gripping trap, on land for the purpose of taking a nuisance wild animal, that has an inside diameter jaw spread larger than six inches in diameter, except as provided in paragraph (H) of this rule.

(iii) It shall be unlawful for any person at any time to set, use, or maintain a body gripping trap, in the water for the purpose of taking a nuisance wild animal, that has a jaw spread larger than seven inches except while completely submerged.

(c) Snares

(i) It shall be unlawful to use any snare that is constructed of any material other than multi or single strand steel cable.

(ii) It shall be unlawful for a person to set, use, and maintain snares for the purpose of taking a nuisance wild animal that does not have:

(a) A relaxing lock and a stop to prevent the opening of the snare from closing to a diameter of less than two and one half inches in diameter, or,

(b) A relaxing lock system with a breaking point of not greater than three hundred fifty pounds.

(iii) It shall be unlawful to set a snare with a loop diameter of greater than fifteen inches.

(iv) It shall be unlawful to use a snare attached to a drag.

(v) It shall be unlawful for any person, except a licensed commercial nuisance wild animal control operator, to have attached to or use a spring-loaded, spring-assisted or mechanical device on a snare to assist the snare in capturing or closing around a nuisance wild animal.

(a) It shall be unlawful for any person to use a spring-loaded, spring-assisted or mechanical device on a snare that is designed or marketed as a lethal snare that has a loop diameter greater than five inches on land.

(b) It shall be unlawful for any person to use a spring-loaded, spring-assisted or mechanical device on a snare that is designed or marketed as a lethal snare that has a loop diameter greater than eight inches in water.

(2) Except as otherwise provided, it shall be unlawful for any person to place, set, or maintain any type of unattended trap other than a cage or box trap, body gripping trap, snare, or spring assisted snare, foot hold trap, foot-encapsulating trap, mole trap, snap trap or glue board for the purpose of taking a nuisance wild animal.

(3) It shall be unlawful to fail to euthanize, or release on site, any nuisance raccoon, skunk, beaver, coyote, fox, or opossum that is captured, trapped or taken.

Except as otherwise provided, it shall be unlawful to fail to release all other nuisance wild animals:

(a) Outside the limits of any incorporated city or village,

(b) On public or private property without the permission of the landowner,

(c) Squirrels, chipmunks, woodchucks or moles may be released or may be euthanized.

(4) Nuisance wild animals which cannot be live-trapped because of certain conditions may be killed only after applying for and receiving written permission from the chief of the division of wildlife or their designee. No such written permission is required to kill or use lethal means of control for the following nuisance wild animals unless otherwise provided in paragraph (H) of this rule:

(a) Beaver, (b) Chipmunk, (c) Mice, (d) Shrews, (e) Voles, (f) Moles, (g) Muskrat, (h) Opossum, (i) Raccoon, (j) Rats, (k) Red, gray, fox and flying squirrels, (l) Skunks, (m) Woodchucks, (n) Coyote, (o) Red or gray fox

(5) It shall be unlawful for any person to use traps, for the purpose of taking a nuisance wild animal, having teeth on the jaws except mouse, rat or mole traps as designed by the manufacturer.

(6) It shall be unlawful to use any flesh bait that is not totally covered or concealed unless such bait is encapsulated by the trap.

(7) It shall be unlawful to set, use, or maintain any trap or snare on any area designated as a public hunting area for the purpose of removing nuisance wild animals without permission of the chief of the division of wildlife or their designee.

(8) It shall be unlawful to take a raccoon, opossum, skunk or fox with the use of dogs outside of a structure during the closed season.

(F) Toxicants or chemical control

- (1) *It shall be lawful to use a toxicant or chemical substance as a means of control for nuisance wild animals. It shall be unlawful to use a toxicant or chemical substance for the taking or control of a nuisance wild animal contrary to or in violation of instructions on the label or manufacturer recommendations.*
- (2) *It shall be unlawful for a licensed commercial wild animal control operator as defined in section [1531.40](#) of the Revised Code to use a toxicant or chemical substance for the taking or control of a nuisance wild animal without first possessing the appropriate license under Chapter 921. of the Revised Code.*

(G) *Other methods*

It shall be lawful for a licensed commercial nuisance wild animal control operator to use a gun equipped with a silencer or muffler.

(H) *Species specific limitations*

(1) *White-tailed deer*

- (a) *White-tailed deer which are causing damage or have become a nuisance may be captured or killed by licensed commercial nuisance wild animal control operator or other persons, only after such landowner or agent of the landowner, where the damage or nuisance is occurring has received a permit from the chief of the division of wildlife or their designee.*
- (b) *The division of wildlife representative approving a permit for a landowner or agent of the landowner, to take, trap or capture white-tailed deer may include specific stipulations on that permit under which white-tailed deer may be captured or killed. It shall be unlawful for any person to violate any stipulation set forth on their permit. A violation of any permit stipulation is a violation of this rule and such permit is then subject to revocation by the chief of the division of wildlife or their designee.*
- (c) *All nuisance white-tailed deer immobilized with chemicals or drugs shall be euthanized.*

(2) *Black bear*

- (a) *Black bear which are causing damage or have become a nuisance may be captured or killed by licensed commercial nuisance wild animal control operators or other persons, only after such landowner or agent of the landowner, where the damage or nuisance is occurring has received a permit from the chief of the division of wildlife or their designee.*
- (b) *The division of wildlife representative approving a permit for a landowner or agent of the landowner, to take, trap or capture a black bear, may include specific stipulations on that permit under which a black bear may be captured or killed. It shall be unlawful for any person to violate any stipulation set forth on their permit. A violation of any permit stipulation is a violation of this rule and such permit is then subject to revocation by the chief of the division of wildlife or their designee.*

(3) *Wild turkey*

- (a) *Wild turkey, which are causing damage or have become a nuisance may be captured or killed by licensed commercial nuisance wild animal control operators or other persons, only after such landowner or agent of the landowner, where the damage or nuisance is occurring has received a permit from the chief of the division of wildlife or their designee.*
- (b) *The division of wildlife representative approving a permit for a landowner or agent of the landowner, to take, trap or capture wild turkey may include specific stipulations on that permit under which wild turkey may be captured or killed. It shall be unlawful for any person to violate any stipulation set forth on their permit. A violation of any permit stipulation is a violation of this rule and such permit is then subject to revocation by the chief of the division of wildlife or their designee.*

(4) *Migratory birds*

- (a) *It shall be unlawful to capture or kill nuisance migratory birds without first obtaining a permit to do so from the United States department of interior, fish and wildlife service, except for the following:*

(i) *Crows*

- (a) *Notwithstanding any other provision in this rule, it shall be lawful for any person to take crows which are found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance.*
- (b) *It shall be unlawful to take or attempt to take crows under paragraph (E) of this rule with the aid or assistance of any calls, artificially placed bait or decoys.*

(ii) *Canada goose*

- (a) *Canada geese which are causing damage or have become a nuisance from March eleventh through August thirty-first may be captured or taken by licensed commercial wild animal control operators, landowners, or agents of the landowner, only after such landowner where the damage or nuisance is occurring has received a permit from the chief of the division of wildlife or their designee.*

(b) Canada geese which are causing damage or have become a nuisance from September first through March tenth may be captured or taken by licensed commercial wild animal control operators, landowners, or agents of the landowner, only after such landowner where the damage or nuisance is occurring has received a permit from the United States department of the interior, fish and wildlife service.

(c) The division of wildlife representative approving a goose damage permit for a landowner may include specific stipulations on the permit under which geese, their nests or eggs may be trapped, captured, taken or destroyed. It shall be unlawful for any person to violate any stipulation set forth on their permit. A violation of any permit stipulation is a violation of this rule, and such permit is the subject to revocation by the chief or their designee.

(iii) Mute swan

(a) Mute swans may be captured or taken by licensed commercial nuisance wild animal control operators, landowners, or agents of the landowner, only after such landowner where the damage or nuisance is occurring has received a permit from the chief of the division of wildlife or their designee.

(b) The division of wildlife representative approving a mute swan removal permit for a landowner may include specific stipulations on the permit under which mute swans, their nests or eggs may be trapped, captured, taken or destroyed. It shall be unlawful for any person to violate any stipulation set forth on their permit. A violation of any permit stipulation is a violation of this rule, and such permit is the subject to revocation by the chief or their designee.

(b) It shall be unlawful to take nuisance migratory birds in violation of the United States Code of Federal Regulations.

(c) Inactive nests of non-colonial migratory birds may be removed.

(5) Bats

(a) It shall be unlawful to euthanize or kill a bat unless a bite or potential exposure to zoonotic diseases has occurred. Any bat killed or euthanized must be reported to the local health department by the affected landowner or their designated agent by the end of the next business day.

(6) Woodchucks or groundhogs

(a) It shall be unlawful to use a body gripping trap with a jaw spread greater than seven inches across to take woodchucks.

(i) It shall be unlawful to set, use, or maintain a body gripping trap to take woodchucks which is set more than three feet from the hole, or structure the woodchuck is inhabiting.

(ii) It shall be unlawful to set, use, or maintain a body gripping trap greater than five inches to take woodchucks that does not have an enclosure or structure around the trap which prohibits other animals from getting into the trap from the outside.

(iii) It shall be unlawful for any person except licensed commercial nuisance wild animal control operators to use snares without a relaxing lock for the purpose of taking woodchucks,

(7) Species designated as endangered or threatened

(a) It shall be unlawful to capture or kill nuisance wild animals listed as endangered in rule 1501:31-23-01 of the Administrative Code or listed as threatened in rule 1501:31-23-02 of the Administrative Code without a permit to do so issued by the chief of the division of wildlife or their designee.

(I) Procedures for issuing, denying, suspending and revoking a license issued under section [1531.40](#) of the Revised Code

(1) The chief of the division of wildlife or their designee shall issue a commercial nuisance wild animal control operator license to any person who applies in writing, with the following conditions:

(a) The application is made on a form and in a manner as prescribed by the chief of the division of wildlife,

(b) The application is made in good faith and all required information is provided as indicated on the application, including but not limited to the name and address of the applicant,

(c) Payment of the fee for the license is made, in the amount as specified in section [1531.40](#) of the Revised Code.

(d) Such license will not be considered valid unless the licensee or an employee of the licensee has a current certification as required under division (C)(1) of section [1531.40](#) of the Revised Code.

(2) The chief of the division of wildlife or their designee may deny an application for a commercial nuisance wild animal control operator's license if the application does not meet the requirements listed or if payment is not received or if any check, money order or other instrument of payment is of insufficient funds.

(3) The chief of the division of wildlife or their designee may suspend or revoke any commercial nuisance wild animal control operator's license if:

(a) The licensee or the employee of the licensee is convicted of or pleads guilty to a violation of Chapter 1531. or 1533. of the Revised Code,

- (b) *The payment received for said license is paid with any check, money order or other method of payment that is returned for insufficient funds.*
- (4) *Notification of suspension or revocation of a commercial nuisance wild animal control operator's license shall be made by certified mail or personal service of a letter of suspension or revocation.*
- (5) *No fees paid for said revoked license shall be refunded.*
- (J) *Requirements for a certification course required by division (C (1) of section [1531.40](#) of the Revised Code*
- (1) *Employees of a licensed commercial nuisance wild animal control operator under on-site supervision of a certified operator or employee are exempt from certification. For the purpose of this rule, under on-site supervision shall be while staying within a distance from the person that enables uninterrupted, unaided visual and auditory communications.*
- (2) *All certification courses will be conducted and administered in accordance with policies and procedures established by the chief of the division of wildlife. Minimum content of the course shall include but is not limited to:*
- (a) *Public safety,*
- (b) *Public health,*
- (c) *Nuisance wild animal life history,*
- (d) *The use of nuisance wild animal removal and control devices,*
- (e) *Laws and rules governing nuisance wild animal removal.*
- (3) *Certification courses may be instructed by any division of wildlife qualified instructor. Course material may be presented on-line and conducted as home-study or may be presented in-person.*
- (4) *Instructors will obtain student manuals and other training materials for their courses from the division of wildlife.*
- (5) *Courses shall be conducted statewide.*
- (6) *Courses shall be free of charge with the exception that instructors may charge nominal fees, in accordance with policies established by the chief, to cover training costs such as facility fees.*
- (7) *The division may charge participants nominal fees for special training courses, home study, certification testing, educational materials, and other programs as approved by the chief.*
- (8) *Completion of the course shall include passing of an examination and receiving a certificate prescribed by the chief of the division of wildlife.*
- (9) *Renewal of certification shall be through passing of an examination of knowledge of continuing education material presented from the division of wildlife on-line or in-person.*
- Effective 6/1/2013*

QUESTION 4

What do I need to nuisance trap wild animals “for free”?

Anytime you are nuisance trapping furbearers, other than coyotes, you are required to have a fur taker permit AND a hunting license. In regards to nuisance trapping non furbearing animals (groundhogs, squirrels etc.) a hunting license would be the only required license

NOTE: There are exemptions to these license/permits: 1) Landowners, spouses and children, 2) Tenants and their children, 3) Disabled veterans, 4) Former POW's, 5) Military on active leave or furlough, 6) and Members of LLC/LLP's with 3 or fewer members are except from obtaining a fur taker permit/hunting license.

These regulations can be found in Ohio Revised Code 1533.10 and 1533.111.

Please submit your questions to legalset@yahoo.com. I plan to answer two to three questions per issue. Kirk Kiefer, Wildlife Investigator

