

M.G.L. Chapter 131, Section 80A: Leghold traps and certain other devices restricted; punishment

Section 80A. Notwithstanding any other provision of this chapter, a person shall not use, set, place, maintain, manufacture or possess any trap for the purpose of capturing furbearing mammals, except for common type mouse and rat traps, nets, and box or cage type traps, as otherwise permitted by law. A box or cage type trap is one that confines the whole animal without grasping any part of the animal, including Hancock or Bailey's type live trap for beavers. Other than nets and common type mouse or rat traps, traps designed to capture and hold a furbearing mammal by gripping the mammal's body, or body part are prohibited, including steel jaw leghold traps, padded leghold traps, and snares.

The above provision shall not apply to the use of prohibited devices by federal and state departments of health or municipal boards of health for the purpose of protection from threats to human health and safety. A threat to human health and safety may include, but shall not be limited to:

- (a) beaver or muskrat occupancy of a public water supply;
- (b) beaver or muskrat-caused flooding of drinking water wells, well fields or water pumping stations;
- (c) beaver or muskrat-caused flooding of sewage beds, septic systems or sewage pumping stations;
- (d) beaver or muskrat-caused flooding of a public or private way, driveway, railway or airport runway or taxi-way;
- (e) beaver or muskrat-caused flooding of electrical or gas generation plants or transmission or distribution structures or facilities, telephone or other communications facilities or other public utilities;
- (f) beaver or muskrat-caused flooding affecting the public use of hospitals, emergency clinics, nursing homes, homes for the elderly or fire stations;
- (g) beaver or muskrat-caused flooding affecting hazardous waste sites or facilities, incineration or resource recovery plants or other structures or facilities whereby flooding may result in the release or escape of hazardous or noxious materials or substances;
- (h) the gnawing, chewing, entering, or damage to electrical or gas generation, transmission or distribution equipment, cables, alarm systems or facilities by any beaver or muskrat;
- (i) beaver or muskrat-caused flooding or structural instability on property owned by the applicant if such animal problem poses an imminent threat of substantial property damage or income loss, which shall be limited to: (1) flooding of residential, commercial, industrial or commercial buildings or facilities; (2) flooding of or access to commercial agricultural lands which prevents normal agricultural practices from being conducted on such lands; (3) reduction in the production of an agricultural crop caused by flooding or compromised structural stability of commercial agricultural lands; (4) flooding of residential lands in which the municipal board of health, its chair or agent or the state or federal department of health has determined a threat to human health and safety exists. The department of environmental protection shall make any determination of a threat to a public water supply.

An applicant or his duly authorized agent may apply to the municipal board of health for an emergency permit to immediately alleviate a threat to human health and safety, as defined in the previous paragraph. If the municipal board of health determines that such a threat exists, it shall immediately issue said emergency permit to alleviate the existing threat to human health

and safety, for a period not exceeding ten days. If denied, the applicant or his duly authorized agent may appeal said emergency permit application to the state department of public health or director. If the state department of public health or director determines that such a threat exists, it shall immediately issue said emergency permit to alleviate the existing threat to human health and safety, for a period not exceeding ten days.

The aforementioned emergency permit authorizes the applicant or his duly authorized agent to immediately remedy the threat to human health and safety by one or more of the following options: (a) the use of conibear or box or cage-type traps, subject to the regulations promulgated by the division; (b) the breaching of dams, dikes, bogs or berms, so-called, subject to determinations and conditions of municipal conservation commissions under section 40; and (c) employing any nonlethal management or water-flow devices, subject to determinations and conditions of municipal conservation commissions under section 40.

If said threat to human health and safety has not been alleviated within said ten days, the applicant or his duly authorized agent in conjunction with the municipal board of health, shall apply to the director for an extension permit to continue the use of alleviation techniques, specified in this section, for a period not exceeding 30 days. If the director determines that such a threat to human health or safety exists, as defined in this section, the director shall immediately issue an extension permit.

If the director determines that said extension permit should be continued for 30 days, the director shall within 30 days of such decision develop, with the assistance of the applicant or his duly authorized agent, municipal board of health and municipal conservation commission, a plan to abate the beaver or muskrat problem using alternative, nonlethal management techniques in combination with water-flow devices, where possible, subject to the determinations and conditions of municipal conservation commissions under section 40, and if necessary, box and cage type-traps in order to provide a long-term solution. The director shall take reasonable steps to implement the plan within this 30-day period.

Compliance with the provisions of any or all of the previous four paragraphs shall not preclude the applicant or his duly authorized agent from applying to the municipal board of health for an additional emergency permit, provided the applicant (a) states in writing that there exists on the property an animal problem which poses a threat to human health and safety, as defined in this section, which cannot reasonably be abated by the use of alternative, nonlethal management techniques or box or cage traps, and that the applicant has attempted to abate the animal problem using alternative, nonlethal management techniques or box or cage traps, or (b) is awaiting the director's approval for an extension permit.

An applicant or his duly authorized agent under clause (b) shall be eligible for only two additional emergency permits, the first of which shall entitle the applicant or his duly authorized agent the use of all or any of the alleviation techniques previously allowed under the initial emergency permit. Said first additional emergency permit shall expire in ten days. If the director still has not acted within this ten day period, the applicant or his duly authorized agent shall be eligible for a second additional emergency permit. Said second additional emergency permit shall entitle the applicant or his duly authorized agent the use of all alleviation techniques previously allowed in this section, except for the use of conibear traps. The second additional emergency permit shall expire on the rendering of a decision by the director regarding the extension permit.

The division shall provide a report annually to the joint committee on natural resources and agriculture on the creation, implementation and efficiency of such animal problem plans.

A person or his duly authorized agent may apply to the director for a special permit to use otherwise prohibited traps on property owned by such person. Issuance of such special permits shall be governed by rules and regulations adopted by the director pursuant to chapter 30A. Such rules and regulations shall include, but not be limited to, provisions relative to the following:

The applicant shall apply to the director in writing and shall state that there exists on the property an animal problem which cannot be reasonably abated by the use of traps other than those prohibited by this section, and that the applicant has attempted to abate the problem using traps permitted under this section. If the director determines that the applicant has complied with sections 37 and 80, if required to do so, and any other laws regarding trapping, and that such an animal problem exists which cannot reasonably be abated by the use of alternative, nonlethal management techniques or traps other than those prohibited by this section, the director may authorize the use, setting, placing or maintenance of such traps, not including leghold traps, for a period not exceeding 30 days during which time the applicant shall remain in compliance with the procedures for obtaining a special permit as set forth in regulations adopted pursuant to this section.

Whoever violates any provisions of this section, or any rule or regulation made under the authority thereof, shall be punished by a fine of not less than \$300 nor more than \$1,000, or by imprisonment for not more than six months, or by both such fine and imprisonment for each trap possessed, used, set, placed, maintained, or manufactured. Each day of violation shall constitute a separate offense. A person found guilty of, or convicted of, or assessed in any manner after a plea of nolo contendere, or penalized for, a second violation of this section shall surrender to an officer authorized to enforce this chapter any trapping license and problem animal control permit issued to such person and shall be barred forever from obtaining a trapping license and a problem animal control permit.