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TITLE 7

Conservation

Game, Wildlife and Dogs

CHAPTER 7. REGULATIONS AND PROHIBITIONS CONCERNING GAME AND FISH

Subchapter III. Muskrats

§ 750 Placement of traps for muskrats.

The habitat of a muskrat shall be a marsh of any size, ordinarily subject to rise and fall of tide, a ditch, a stream, or land not suited to cultivation of crops due to a normally marshy condition. A trap set or found at any place other than such habitat shall be considered as having been set for game animals other than muskrats.

[27 Del. Laws. c. 157, §§ 1, 2](#); Code 1915, §§ 2388, 2392B; [40 Del. Laws. c. 191, § 18](#); Code 1935, § 2839; 7 Del. C. 1953, § 761; [70 Del. Laws. c. 275, § 86](#);

§ 751 Muskrats driven from shelter by flood or freshet.

No person shall take, kill or capture, by any means whatever, any muskrat during the time of any flood or freshet, when such flood or freshet may cause any muskrat to leave its usual and accustomed place of shelter and protection.

Whoever violates this section shall be guilty of a class D environmental violation for each offense.

[26 Del. Laws. c. 165, § 14](#); Code 1915, § 2387; Code 1935, § 2838; 7 Del. C. 1953, § 762; [70 Del. Laws. c. 275, §§ 78, 86](#); [79 Del. Laws. c. 421, § 3](#);

§ 752 Hunting muskrats with dog; penalty.

(a) No person shall hunt, take, catch or kill any muskrat with dog or dogs.

(b) Whoever violates this section shall be guilty of a class D environmental violation for each offense.

[27 Del. Laws. c. 157, §§ 1, 2](#); Code 1915, §§ 2388, 2392B; [40 Del. Laws. c. 191, § 18](#); Code 1935, § 2839; 7 Del. C. 1953, § 763; [70 Del. Laws. c. 275, §§ 79, 86](#); [79 Del. Laws. c. 421, § 3](#);

§ 753 Muskrat nailing; destroying or damaging muskrat house, den; penalties.

(a) No person shall take, capture or kill, at any time, within this State, any muskrat by the method commonly known as nailing; or dig into, tear down, remove, interfere with, destroy or damage in any way any muskrat house, nest, den, lair or refuge.

(b) Whoever violates this section shall be guilty of a class C environmental violation for each muskrat house, nest, den, lair or refuge, dug into, torn down, removed, interfered with, destroyed or damaged in any way.

Code 1915, § 2388A; [32 Del. Laws, c. 172, § 1](#); Code 1935, § 2840; 7 Del. C. 1953, § 764; [70 Del. Laws, c. 275, §§ 80, 86](#); 9 Del. Laws, c. 421, § 3.;

§ 754 Trespassing on property of another to kill muskrats; violations and penalties.

(a) Whoever enters into or upon, or trespasses upon the ways, marshes, lands or premises of another within this State, without first obtaining the consent of the owner or lessee thereof, for the purpose of taking, trapping, capturing or killing any muskrat in any manner whatsoever, shall be guilty of a class C environmental violation.

(b) Nothing in this section shall affect the right of the party injured, to that party's civil action for damages, as in cases of trespass.

Code 1915, § 2388B; [32 Del. Laws, c. 172, § 1](#); Code 1935, § 2841; 7 Del. C. 1953, § 765; [70 Del. Laws, c. 186, § 1](#); [70 Del. Laws, c. 275, §§ 81, 86](#); [79 Del. Laws, c. 421, § 3](#).;

§ 755 Taking muskrat on public road or highway; penalties.

(a) No person shall take, capture or kill, in any manner, at any time, within this State, any muskrat on any public road or highway.

(b) Whoever violates this section shall be guilty of a class D environmental violation for each offense.

Code 1915, § 2388C; [34 Del. Laws, c. 183, §§ 1, 2](#); Code 1935, § 2842; [43 Del. Laws, c. 195, § 1](#); 7 Del. C. 1953, § 767; [70 Del. Laws, c. 275, §§ 83, 86](#); [79 Del. Laws, c. 421, § 3](#).;

§ 756 Diving or box trap; penalty.

(a) No person shall take, capture or kill, at any time, within the State, any muskrat with a trap commonly known as a diving or box trap. The setting of any such trap in any muskrat den, lead, or runway shall be prima facie evidence of an offense against this section.

(b) Whoever violates this section shall be guilty of a class D environmental violation for each offense.

Code 1915, § 2388C; [34 Del. Laws, c. 183, §§ 1, 2](#); Code 1935, § 2842; [43 Del. Laws, c. 195, § 1](#); 7 Del. C. 1953, § 768; [70 Del. Laws, c. 275, §§ 84, 86](#); [79 Del. Laws, c. 421, § 3](#).;

§ 757 Trapping muskrats or other fur-bearing animals adjacent to Broadkilm Creek without consent of landowner; penalty.

(a) No person shall trap or take muskrats or other fur-bearing animals from any lands adjacent to Broadkilm Creek, from the corporate limits of the Town of Milton to the Delaware Bay, or from the banks of Broadkilm Creek, from the corporate limits of the Town of Milton to the Delaware Bay, without first obtaining the consent of the owner of the lands or banks of the Creek. The failure of any person trapping or taking muskrats or other fur-bearing animals, as aforesaid, to produce the consent in writing of the landowner or the owner of the bank on which traps are set for muskrats, or other fur-bearing animals are taken shall be prima facie evidence of the violation of this section.

(b) Whoever violates this section shall be guilty of a class C environmental violation for each offense.

[44 Del. Laws, c. 148, §§ 1, 2](#); 7 Del. C. 1953, § 769; [70 Del. Laws, c. 275, §§ 85, 86](#); [79 Del. Laws, c. 421, § 3](#).;

§ 758 Extension of muskrat open season.

Notwithstanding § 703(1) of this title, the open season during which it shall be lawful to catch, kill or pursue or attempt to catch, kill or pursue muskrat may be extended. The Department shall establish both the conditions under which an extension shall occur and the extension framework through regulations promulgated pursuant to Chapter 101 of Title 29, Administrative Procedures Act.

[77 Del. Laws, c. 437, § 1.](#);

§§ 759 -766. [Reserved.]



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