

Your Earth-Working (with dogs) and The Law.

And the other side of the "Catch-n-Release" ideology.

The idea of catch-and-release of earth-worked vermin evokes a lot of emotions when the fact that it is flatly illegal comes up. The law in most states will read something like this: ... illegal to release or remove any wild animal alive from his place of capture. Before getting all worked up, lets all take a deep breath and think carefully about what all this might really mean.

You may only be breaking the law under a fairly specific set of circumstances.

Also, lets all remember that the Game Wardens are not prowling in search of folks that are catching and then releasing raccoons, fox, woodchucks and such. Some very specific legal principles are at issue. An important legal term in these matters is what is called "possession." This word sounds specific enough but really isn't when used in the context of earth-working with or without dogs.

Remember, if you hold the live creature aloft for a photo you'll have made a legal record of the fact that you were in "possession" of that animal. Suppose the animal struggles and gets free before you can "dispatch" it, (as you are legally required to do.) Did you break the law? This is something to argue in court. A "release" is illegal but if the animal "escapes," is that a crime too? You might not have so much to worry about if the matter ever actually turns into a court case as long as you answer correctly.

There is also the very real fact that if you don't actually take hold of the beast there is no way to make the case for possession. Until you hold the beast in your hands, snare, trap or cage you don't have legal possession of it.

How about the fact that you are digging up the den of the earth dwelling creature?

Well, that can be a real can of worms! In some states the law is very specific with regard to bothering animals in their dens or attempting to do so.

The language of such laws commonly use the words "molest," "attempting to," and "any" in the description of the activity being specified as illegal.

There is no mention of how to deal with your dog that found and entered a hole while you are out for a walk. Intention is the legal issue that is not specifically mentioned and it's intention that is at the center of the legal matter.

Intention is hard to prove without other incriminating evidence.

It is no secret that under most circumstances Game Wardens normally don't have a case until they get YOU to say something that incriminates you. Most people are very easy to engage in conversation and they seldom realize that they have confessed to a crime by simply answering a question unwisely. A direct result of the public school system of America is that we, as a nation, are generally so uneducated that most of us

will confess to a criminal act without even knowing it. Remember, the Game Warden is trained and skilled in how to get you talking. He knows what questions to ask and to very carefully listen to the exact words you speak as you answer.

This is where most cases are made for hunting and fishing violations.

If a Game Warden is present, you'd better think carefully about exactly what he asks and the specific words you speak as you answer him. Remember, you can always just shut-up, (but he probably won't go away if you do.)

If the Game Warden is standing there trying to get you to explain why you are digging up some animal's den the only answer that makes legal sense is that you are just trying to retrieve your dog. You have no idea what the dog is after and you're just trying to get him out alive. This is very reasonable.

Question: Where did the shovel come from?

Answer: You went home (or to the truck) and got it.

Do not say you brought the shovel with you! Having brought a shovel will make the case for intent. This is a subject you should have thought carefully about before the situation ever comes to reality...if it ever does.

These facts are why it is very important that you understand the laws as they pertain to what you are doing. Most likely you can go engage in earth-working all your life without any problems no matter what the laws are in your state.

All we're saying is that if you find yourself trying to explain what is going on to some type of law enforcement officer you'd best be aware of the law [as it pertains to earth work] so you know how to answer questions correctly. As with many things in our convoluted legal system, what you *say* about what you are doing is the single most important part of the matter.

Be very mindful of the fact that the simple presence of a law enforcement officer of any type means trouble. Its not likely he came there on his own. Someone called him to the location. That fact should worry you quite a bit. You aren't likely to get the officer to say who it was that called him to the scene.

Just answer the questions in a manner that makes it clear you are not breaking any laws. That is all the officer really cares about. It will be your task to convince him that nothing illegal is going on. The time to worry about who called him or why is after the law enforcement officer has gone away satisfied with your answers.

Catch and release is illegal virtually everywhere and under most circumstances.

Digging into a den might also be legally challenging in some states.

Know the law! Be able to explain yourself without incriminating yourself.

That's all we are saying here.