

My Understanding of Ontario's Wildlife Laws and the Trade in Wildlife Products in Ontario

by

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SECOND DRAFT

Overview

Our goal at Chichester Canada, Inc. is to understand the laws of Ontario and comply with them in the course of our business. We have tried reading the laws ourselves in the past and worked with suppliers and customers in order to understand how the laws affect our business. There has been a lot of confusion and contradictory information in the market. Part of the problem is that the laws affect different participants in different ways. For example, a trapper may say that it is

illegal to sell black bear claws while a jewelry dealer may say it is legal to sell black bear claws. The legality varies depending upon the circumstances.

In order to better understand the laws regarding the wildlife trade in Ontario I requested a meeting with regulatory specialists from the Ministry of Natural Resources.

Meeting Participants

On Thursday, April 14, 2016, I had a meeting in the Aurora branch of the Ministry of Natural Resources at 50 Bloomington Road with Conservation Officer Robert Ip and two specialists from the regulatory support section of the Ministry of Natural Resources headquarters in Peterborough, Ontario:

Mr. David Critchlow	P: 705.755.1437
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Regulatory Support Section	
Ministry of Natural Resources and Forestry	
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Mr. Critchlow specializes in regulations for trappers and Mr. Robbins specializes in regulations for fishing.

We spent two hours in a wide ranging discussion on the laws regarding the sale of wildlife products in Ontario. The focus was on laws governing the buying, selling, bartering, possessing,

and trading of wildlife products primarily in a finished, processed, or non-raw state. We did not focus on hunting regulations, trapping regulations, or the finer points of the Species at Risk Act or CITES.

Legal Notice to Readers

In this essay, I am going to summarize the key points for staff at Chichester Canada, Inc. This is my understanding of the laws and is an internal document. This document is not to be relied upon by others as definitive legal advice. Others are welcome to review this material. They are encouraged to confirm the accuracy of what is written below with the wildlife specialists in Peterborough. Please do not call us to argue a specific point without confirming with the wildlife specialists first: they are the experts on how to interpret the laws and advise enforcement officers on how to proceed in the event of a violation of these laws. We would be grateful for any feedback on errors in this document. We accept no legal or financial liability whatsoever for the use of the information contained in this document. This document is my understanding of the laws—not the final say on what is and is not legal. Only the Supreme Court of Canada can make a final ruling on what the laws mean.

We do not deal with the sale of plants or migratory birds in this essay.

Levels of Regulation of the Wildlife Trade in Ontario

There are a variety of different levels of regulation. There are Ontario laws, federal laws, and international treaties.

There are other laws affecting the wildlife trade from other departments. For example, the Canadian Food Inspection Agency also controls the importation of wildlife products.

Where We Draw the Line at Chichester

At Chichester our guiding principle has been that if a species is listed on the U.S. Endangered Species List we do not engage in any trade in this species. This keeps us from dabbling in grey areas and reduces the chance of a serious violation. This means that we do not offer elephant tusks or sperm whale teeth or rhino horn or anything coming from nearly 200 mammals, reptiles, or other animals on this list. Of course, the Canadian Species at Risk Act and the Ontario Species at Risk Act may include other items as well that are off limits in Ontario.

By drawing the line at any species on this list, we do not deal in antiques or items that were legally acquired before these acts came into force.

Species at Risk Act (SARA)

This is a federal act that determines which species are considered endangered or at risk of extinction in Canada. Any species listed under SARA may not be dealt in.

Species that are legally acquired prior to the enactment of the CITES treaty, may be possessed, bought, and sold. For example, elephant tusks or sawfish blades legally acquired before 1973 (?) may be possessed, bought, and sold within Canada. Nonetheless, we do not deal in these products, so this is not of concern to us.

CITES

CITES is the Convention on International Trade in Endangered Species of Fauna and Flora. See www.cites.org. This is an international convention regulating the trade in all life forms on the planet. It deals with international trade, e.g., moving items between countries and has little to do with items once legally inside a country.

There are three levels of control:

- Appendix 1 articles are not allowed in commercial trade. These are items like elephant tusks, pandas, rhino horn, etc.
- Appendix 2 articles are allowed for commercial trade with strict controls. These are items where there is a desire to monitor and control the commercial trade in species such as black bear, otter, and lynx, etc.
- Appendix 3 articles are of special concern to one or more countries and require permits to trade. An example was South Africa's temporary controls on the trade in abalone products.

WAPPRIITA

WAPPRIITA stands for the Wild Animal and Plant Protection and Regulation of International and Interprovincial Trade Act (WAPPRIITA). This act is the federal government's implementation of the CITES treaty.

Ontario Species at Risk Act

This law governs species within Ontario. For example, Ontario polar bears may not be sold in Ontario. Badger, wolverine, and a few other species that originate in Ontario may not be sold. These same species that have been acquired legally from other provinces or territories or countries, may be sold here. For example, the North American Fur Auction (www.nafa.ca) can legally sell wolverine from the Northwest Territories, but not ones from Ontario.

There is no prohibition in general on the sale of these species in Ontario. The prohibition only applies to animals and animal pieces and parts that originate from animals resident in Ontario.

Snapping turtle parts and monarch butterfly parts cannot be sold in Ontario, regardless of the source. They are protected species in Ontario.

Sale of Different Types of Species Categories for Ontario Species

As an ultra-urban high-rise dweller, I was personally confused by the distinction between furbearing species and game species. Furbearing Species are basically allowed in commercial trade and Game Species are generally not allowed in commercial trade. As with all laws, there are some exceptions.

Furbearing Species

These are animals that may be hunted and trapped and are considered to be commercially traded. There are 21 species in Ontario. The sale of raw pelts or unprocessed pieces and parts requires a hunting or trapping license and the buying of these pelts or pieces and parts requires a fur dealer's license. We have an Ontario fur dealer's license, but do not buy much in the way of raw fur. As a rule, we do not buy raw fur items from trappers or hunters and do not sell raw fur items in Ontario.

The export of these raw pelts from furbearing species in Ontario to another province or territory or country requires an export permit.

Royalty payments must be made to the government for any pelts taken from the wild. This is covered under the fur dealer's license and monthly filing.

The following are considered to be commercially traded furbearing species in Ontario:

I will add the genus and species when I have more time.

- Badger, American (but, not from Ontario)
- Beaver
- Bobcat
- Coyote
- Fisher
- Fox, Arctic
- Fox, Grey
- Fox, Red (and all color phases, silver, mutation, frost)
- Lynx
- Marten
- Mink
- Muskrat
- Opossum
- Otter
- Raccoon
- Skunk, striped
- Squirrel, red (Canadian pine)
- Weasel, Least
- Weasel, Long-tailed
- Weasel, Short-tailed (ermine)
- Wolf

It is legal to sell the processed pelts, skulls, bones, teeth, claws, pieces, and parts from these animals. For example, there is no problem selling processed/treated coyote skulls and bones or ermine tails.

Processed pelts, pieces, and parts from other jurisdictions can be sold in Ontario without any problem as well.

Game Species

Game species are animals that can be hunted or trapped, but cannot be sold. In general, one cannot sell the hides, skulls, claws, pieces, parts, etc. There are exceptions for the sale of **hides only** of four species: American elk, black bear, moose, and white tail deer.

I will add the genus and species when I have more time.

- Bear, black (sale of hides allowed with claws present when raw)
- Caribou, woodland (subspecies) *
- Cottontail rabbit (wild rabbit)
- Deer, white-tail (sale of hides allowed)
- Elk, American (Wapiti) (sale of hides allowed)
- Hare, European (wild rabbit)
- Hare, Varying (Snowshoe)
- Moose (sale of hides allowed, antler drops allowed)
- Squirrel, Gray (or black phase)
- Squirrel, Fox

* The woodland caribou is a subspecies of caribou found generally around the Hudson Bay region. Caribou (and reindeer) from other areas are allowed for sale in Ontario. Smoked caribou from Quebec would not be allowed for sale in Ontario.

Think of game species as animals that may be killed for sport, but not sold. It is legal to kill a common wild rabbit, but the hide, or any pieces and parts may not be sold. The hunter or sportsman may kill a rabbit and possess the hide, parts, and pieces, but cannot sell these. We could not import the snowshoe hare from America into Canada, but the ones from Siberia would be legal as they are a different genus and species. Another example would be killing a deer and mounting the head. This head cannot be sold.

We cannot sell skulls, bones, claws, teeth, pieces and parts of these animals either. Hides in general may not be sold. Hides from the deer family, however, are legal. White tail deer, elk, and moose hides and leather may be sold. Hides from black bear can be sold raw with the head and claws attached. For legal purposes, the claws are considered to be part of the hide and can be sold with the hide.

We cannot sell pieces and parts or skulls or claws, etc. of these species even if they originate from other provinces, territories, or countries.

Once tanned or processed, only the hides of deer, elk, moose, and black bear may be sold.

Antlers and Skull Mounts of Cervid Game Species

We cannot sell antler mounts or full racks of deer, caribou, elk, or moose. Full racks are illegal to sell. We could not buy a mounted deer skull with antlers from an antique shop or trading post and sell this in Ontario. Technically, they cannot sell it to begin with. We cannot import legally acquired ones from the U.S. and sell in Ontario.

Cast antlers with the button on the bottom are legal to sell. This is true for moose. I must confirm whether it is true for other members of the deer family. If the antler has the knobby bottom on the button it was dropped naturally from the moose and can be sold. If it was cut off the head with a saw and has an even cut at the base, it cannot be sold in Ontario. I have been told by someone else in the Ontario government that cast antlers or dropped antlers cannot be removed from the woods in Ontario because these antlers serve as a source of protein or salt or something for wild animals. Is there a law anywhere for this? Can we confirm?

We cannot sell skulls of white tail deer, caribou, American elk, or moose. We cannot sell antlers cut off the head of white tail deer, caribou, American elk, or moose.

There is no longer a cast-antler license required in Ontario.

What are regulations for the dog chew market? I assume many of these antlers come from deer. Maybe they all come from mule deer or other deer.

Elk Ivories or Moose Ivories

We cannot sell elk or moose ivories unless they have been turned into jewelry. No raw ivories can be imported into Ontario if they have the skin attached to them. The concern is the spread of chronic wasting disease.

Dog and Cat Fur

It is illegal to import or offer for sale any article made from domesticated dog or domesticated cat fur. We believe it is legal to sell other dog and cat bones or skulls as the prohibition always states just the fur.

Non-Listed Species from Ontario

Species that are not considered to be furbearing species or game species may be sold either raw or tanned without restriction. For example, groundhogs can be sold raw or tanned and pieces and parts are not regulated. One caveat is that the species must not be protected under the Species at Risk Act or Ontario Species at Risk Act.

It is perfectly legal to sell lion skulls, claws, teeth, etc. We can sell Burchell's zebra skins or pronghorn antelope, etc., etc. Ontario is only concerned about species in Ontario and species that are prohibited by other regulations such as Species at Risk or CITES.

Scope of Coverage

Any species listed under fur bearing or game species applies to wildlife from anywhere in the world—not just Ontario. If it is illegal to sell a wild rabbit (hare) from Ontario, it is also illegal to sell one from any other jurisdiction, such as Quebec or Idaho. It is legal to sell a jack rabbit of another genus and species in Ontario. The prohibition on items is strictly at the genus and species or even subspecies level.

Raw Vs. Tanned

The laws for raw skins are different from the laws for tanned or finished products. Our focus is on items that have been tanned, processed, treated, prepared by a taxidermist, etc., etc. These are basically finished products that have been legally acquired from hunters or trappers or auction houses or others.

Crossing Provincial Borders

Export permits are required for raw pelts, hides, pieces, parts, etc. Once an item is tanned or finished, there is no problem sending an item outside of Ontario to another province or territory or bringing it into Ontario from another province or territory.

An export permit is required for raw pelts, hides, pieces, parts, etc., leaving Ontario for another country.

International trade in general is a different kettle of fish and we must deal with CITES, CFIA, etc., when importing or exporting wildlife items.

Black Bear Laws

The laws concerning black bear are a regulatory quagmire. There are many exceptions and special rules.

To reduce the killing of black bears for gall bladders and claws in Ontario, it is illegal to kill a black bear, cut off the claws and gall bladders and leave the carcass and then sell the claws and gall bladder. People interpret this as it being illegal to sell black bear claws under all conditions. This is not completely true. It is illegal to sell claws that were taken from unprocessed (e.g., untanned) hides that have not been turned into jewelry or art. If a hunter kills a bear, he or she can use the claws from that hide to make jewelry or art and then legally sell these items. They just cannot be sold as raw claws or even as processed claws unless the hide was processed.

The claws are considered part of the hide given that the claws are attached to the hide.

Once a hide has been tanned, the claws could be cut off and sold as is in Ontario. The fur can be turned into anything. The hides no longer need the claws attached. The fur can be used anyway one wants. It is possible and legal to sell bear claws in Ontario as just bear claws as long as they come from hides that were processed and not just taken off bears killed for their claws and gall bladders. As long as we can document the source of the claws we offer for sale we should be fine.

Black Bear Laws – A Special Note for Raw Skins Purchased at NAFA or Fur Harvesters

Black bear skins do not get filed with the raw fur dealer's monthly return. These are game animals and are not on the furbearer report.

Raw black bear skins no longer require provincial export permits when shipping from Ontario to another province or territory.

CITES is required for export to another country—as is a health certificate.

Where to Find the Source Laws in Ontario

I will update this when I have more time.

See E-Laws in Ontario

I will provide links to other laws.

See the Species at Risk Act

See the Ontario Species at Risk Act

See the U.S. Fish & Wildlife Service's Endangered Species List

See the CITES website