

Background

This information pertains to First Nations people defined as Indians under the Indian Act who have a constitutionally protected right to hunt game for food in Alberta.

It is a short summary only and does not cover all laws on hunting activities. For example, it does not include federal laws or hunting on federal lands such as national parks.

Our courts base their interpretation of Indian hunting rights in a specific situation on the facts presented to them. The courts' interpretations of Indian hunting rights can change over time, as can hunting laws. Therefore, this brochure does not give legal advice and does not bind the government in any way. It is a guide only. If in doubt about Indian hunting rights, contact local Alberta Fish and Wildlife staff or a lawyer.

Note: This document does not include hunting in Alberta by Métis, some of whom may have harvesting rights within the limits of the Supreme Court of Canada Powley decision.

Source of Indian hunting rights

A long series of court decisions has determined the hunting rights of people defined as Indians under the Indian Act. In Alberta, the decisions mean these rights must be consistent with treaty rights, the Alberta Natural Resources Transfer Agreement (also known as the Constitution Act, 1930 Schedule 2) and the Canadian Constitution. Paragraph 12 of the Alberta Natural Resources Transfer Agreement describes the right of Indians to hunt and fish as follows:

In order to secure to the Indians of the Province the continuance of the supply of game and fish for their support and subsistence, Canada agrees that the laws respecting game in force in the Province from time to time shall apply to the Indians within the boundaries thereof, provided, however, that the said Indians shall have the right, which the Province hereby assures to them, of hunting, trapping and fishing game and fish for food at all seasons of the year on all unoccupied Crown lands and on any other lands to which the said Indians may have a right of access.

Access

Eligible Indians have a right to hunt for food on unoccupied Crown lands and other lands where they have a right of hunting access. Eligible Indians may hunt for food on privately owned lands if the landholder has given them permission. Laws pertaining to accessing leased public land must also be followed. The Alberta Guide to Hunting Regulations contains a summary of hunting access laws.

Eligible Indians may hunt for food on lands that are not being put to any other use that is visibly incompatible with hunting. This is a consideration that must be decided on a case-by-case basis. The safety of other persons, livestock and domestically raised animals will be of primary importance. The presence of fences, signs, fields, buildings, domesticated animals or indications of farming or industrial activities all suggest uses that are visibly incompatible with hunting. For example, unless permission to hunt has first been obtained, Indians may not hunt on:

- lands being actively used for mining, lumbering or other industrial purposes;
- fenced, posted or cultivated lands;
- lands containing buildings which may be used or occupied; or
- lands where livestock or domestically raised animals may be present.

Indians may not hunt in provincial parks, recreational areas, ecological reserves and other similar lands where no hunting is allowed. They also may not hunt in wildlife sanctuaries, including road corridor wildlife sanctuaries. Hunting or possessing an uncased firearm is not allowed within 365 meters (400 yards) of the centre line of a road that is designated as a road corridor wildlife sanctuary.

Sale of wildlife (trafficking) and gifting

The *Wildlife Act* and regulations set out Alberta's laws on the selling, buying, bartering, soliciting or trading in wildlife or wildlife parts or offering to do so. The law does not allow many activities, and controls others. It does not allow hunting for the purpose of trafficking in wildlife, including parts such as meat, trophy heads, antlers, horns or skins. However, it does allow the sale of skins from deer, elk, moose or pronghorn antelope that were lawfully hunted for food. Wildlife killed for food by Indians is for the sole use of the hunter and their family. The law does not allow gifting of this wildlife, including any meat or other part, to anyone that is not an Indian.

Registration of harvest

Registration requirements apply to all persons. For example, anyone who kills a grizzly bear, male bighorn sheep over the age of one year, mountain goat, cougar, or a bison under the Aboriginal Resident Wood Bison Licence must report the killing. The report must be made in person at a Fish and Wildlife district office. A grizzly bear kill must be reported within 4 business days, a bighorn sheep kill within 14 days, a mountain goat kill within 30 days, a cougar kill within 1 business day and a licensed bison kill within 5 business days. For more information and a complete list of animals subject to registration requirements, please review the *Alberta Guide to Hunting Regulations*.

The Chronic Wasting Disease (CWD) surveillance program in Alberta relies on the mandatory submission of heads of deer taken by hunters from target areas of concern within 30 days of the kill. Deer heads from those areas can be delivered for testing during business hours at an Alberta Fish and Wildlife district office. During the fall, additional drop-off locations are also provided. Contact your local Fish and Wildlife office for more information.

Export of game outside of Alberta

There are federal and provincial laws that restrict the export of game from Alberta. Certain types of wildlife and certain wildlife parts cannot be sent out of Alberta by any person, including an Indian - for example, bear paws and bear gall bladders. In some situations, an export permit may be required to export game animals or parts of them. Please contact your local Alberta Fish and Wildlife office for more information, if you want to take game that you have hunted for food to a location outside of Alberta.

Migratory birds

Eligible Indians may hunt migratory game birds for food without a licence or permit during all seasons where access is permitted. Normal bag limits do not apply to eligible Indians. However, any protected species for which there is not a regulated hunting season, for conservation reasons, may not be harvested by anyone. Other laws that apply to all hunters include environmental protection or safety laws, such as the requirements to use non-toxic shot and the non-use of rifles for hunting migratory game birds.

Trapping

The right of eligible Indians to hunt game for food does not include the commercial trapping of animals to sell the fur.

Seasons

Generally, eligible Indians may hunt for food in Alberta without licences at all times of the year on lands where they have a right of access for hunting. One exception relates to establishing a licensed bison season. Alberta and First Nations have cooperated in establishing a bison management strategy for the Hay-Zama bison herd in the far Northwest portion of the province. This management strategy requires eligible Indians harvesting bison in this area to obtain an Aboriginal Resident Wood Bison Licence. The number of licences issued is limited for conservation reasons; however, there is no charge for the licence. For more information, contact your local Alberta Fish and Wildlife district office.

Safety

Certain laws that deal with hunting safety apply to all hunters including Indians who hunt for food. The following are examples:

- shall not hunt in a dangerous manner
- shall not fire a weapon or firearm illegally (such as at night in a dangerous manner, or from a provincial highway or within 183 meters [200 yards] of an occupied building); or
- shall not fire a weapon from a vehicle or have a loaded firearm in a vehicle.

Local municipal bylaws may also outlaw the firing of weapons in some areas.

If in doubt about the applicability of any provisions, contact your local Alberta Fish and Wildlife office or a lawyer.

Wastage of meat

It is against the law for anyone to allow the edible flesh of any game animal or game bird that is suitable for human consumption to be wasted, destroyed, spoiled or abandoned. All edible meat from a harvested animal or bird must be removed and used for food.

Eligibility and showing proof of your rights

When hunting for food, Indians should carry identification such as a card issued by Indigenous and Northern Affairs Canada, which officially identifies them as a status Indian.

If you would like more information on any of these subjects, contact Alberta Fish and Wildlife office closest to where you plan to hunt, and speak with a Fish and Wildlife Officer.