

2101.

MINNOWS—CATCHING BY MEANS OF MINNOW TRAPS AND DIP NETS
PROHIBITED IN INLAND FISHING DISTRICTS.

SYLLABUS:

By virtue of the provisions of Section 1414 of the General Code, minnow traps and dip nets may not be used to take or catch minnows in the inland fishing districts.

COLUMBUS, OHIO, July 17, 1930.

HON. GEORGE E. SCHROTH, JR., *Prosecuting Attorney, Tiffin, Ohio.*

DEAR SIR:—I am in receipt of your letter of recent date which is as follows:

“In re: Sec. 1414, G. C.

This section provides that minnows may be caught in the inland fishing district with a seine not exceeding four feet in depth and eight feet in length. Our worthy game warden would like to know whether or not this section would permit the catching of minnows by means of minnow traps or dip nets.

It appears that our game laws, like a good many of our school laws, are subject to many interpretations and I would appreciate it very much if you or your office would give me your views on this subject.”

Section 1414 of the General Code, as amended by the 87th General Assembly, 112 Ohio Laws, 255, provides as follows:

“In the inland fishing district seining for minnows is prohibited from the first day of May to the fourteenth day of June, both inclusive, except in streams in which the average width of water at the time seined, does not exceed twelve feet for a distance of fifty yards above and below the point seined. In such districts no person shall take, catch, buy or sell minnows, except for bait and the taking, transporting or shipping of minnows out of the state is prohibited. In the inland fishing districts of the state no minnows shall be taken or caught except with a minnow seine not exceeding four feet in depth and eight feet in length and in the Lake Erie fishing district no minnows shall be taken with a minnow seine exceeding thirty feet in length. No person at any time, in the inland fishing district, shall have in his possession either alive or otherwise more than one hundred (100) minnows, excepting persons, firms, associations or corporations buying, selling or dealing in bait, which person, firms, association or corporations must be licensed as provided in Section 1414-1.”

You will observe that the legislature expressly provided that “in the inland fishing districts of the state no minnows shall be taken or caught except with a minnow seine not exceeding four feet in depth and eight feet in length.” The legislature expressly prohibited the catching or taking of minnows, in the inland fishing district, except with a minnow seine. This leads me to the conclusion that it was the intent of the legislature to exclude all other devices. Where authority is given to do a particular thing and the mode of doing it is prescribed, it is limited to being done in that mode; all other modes are excluded. Sutherland on Statutory Construction, Vol. II, Page 919. Since the legislature excluded by the provisions of Section 1414 all other devices except minnow seines to take or catch minnows, therefore, minnow traps and dip nets may not be used to take or catch minnows in the inland fishing districts.

Respectfully,

GILBERT BETTMAN,

Attorney General.