

OPINION NO. 69-008**Syllabus:**

A court may not properly omit or suspend the mandate contained in Section 1531.99 (B), Revised Code, which provides, in part, "/n/o hunting and trapping license or permit to hunt deer may be issued to a person so convicted for a period of three years after the date of such conviction."

To: Russell J. McMaster, Paulding County Pros. Atty., Paulding, Ohio
By: Paul W. Brown, Attorney General, January 27, 1969

The request of your predecessor for my opinion reads, in part, as follows:

"I should like your official opinion with reference to R.C. 1531.99 Paragraph (B).

"The question is: 'The paragraph provides in part: "no hunting and trapping license or permit to hunt deer may be issued to a person so convicted for a period of three years after the date of such conviction." Is such imposition for three years mandatory or may the Court set a lesser period of time?'"

The full text of Section 1531.99, Revised Code, states:

"(A) Whoever violates section 1531.02 of the Revised Code, or any rule, regulation, or order of the division of wildlife, shall be fined not less than fifteen nor more than two hundred dollars and costs of prosecution.

"(B) Whoever violates section 1531.02 of the Revised Code concerning the taking or possession of deer shall be fined not less than one hundred nor more than five hundred dollars

and costs of prosecution, or be imprisoned not more than thirty days, or both, and such person may not take or possess deer for three years after the date of conviction of such violation. No hunting and trapping license or permit to hunt deer may be issued to a person so convicted for a period of three years after the date of such conviction."

Section 2947.13, Revised Code, authorizes any court to omit or suspend any part, or all, of a sentence for a misdemeanor; however, an examination of Section 1531.99 (B), supra, about which has been inquired, discloses that there is provided, not only a penalty in the nature of a fine, and a prohibition, of a person convicted of a violation of Section 1531.02, Revised Code, against the taking or possession of deer for a three year period following the conviction, but also a prohibition against the issuance of any hunting and trapping license, or permit to hunt deer, by the authorized issuing agencies. The latter prohibition would appear not to be a part of the sentence imposed upon the misdemeanant, and not subject to the discretion granted to the court by Section 2947.13, Revised Code.

It is, therefore, my opinion that a court may not properly omit or suspend the mandate contained in Section 1531.99 (B), Revised Code, which provides, in part, "N/o hunting and trapping license or permit to hunt deer may be issued to a person so convicted for a period of three years after the date of such conviction."