

1 SENATE BILL 286

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

4 Pete Campos

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10 AN ACT

11 RELATING TO WILDLIFE; ENACTING THE NEW MEXICO WILDLIFE  
12 PROTECTION AND PUBLIC SAFETY ACT; PROVIDING FOR RESTRICTIONS ON  
13 THE USE OF TRAPS AND POISONS.

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

16 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be  
17 cited as the "New Mexico Wildlife Protection and Public Safety  
18 Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
20 New Mexico Wildlife Protection and Public Safety Act:

21 A. "body-gripping trap" means a trap that grips an  
22 animal's body or body part, including a steel-jawed leg-hold  
23 trap, a padded-jaw leg-hold trap, a conibear-type trap, an egg  
24 trap, a duffer trap, a glue trap, a foot-hold trap and all  
25 other traps and snares designed to grasp, squeeze or attach to

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1 an animal's body or body part or to kill an animal;

2 B. "confinement trap" means a trap that does not  
3 grip an animal's body or body part, including a cage or box  
4 trap, a corral trap, a colony trap, a net and a suitcase-type  
5 live beaver trap;

6 C. "conibear-type trap" means a spring-loaded,  
7 rotating jaw trap intended to deal a crushing and fatal blow to  
8 an animal when the animal passes through the trap;

9 D. "department" means the department of game and  
10 fish;

11 E. "domestic animal" means any animal that is bred  
12 for and is typically subject to human control;

13 F. "ecosystem management" means actions that are  
14 necessary to maintain or increase the long-term sustainability  
15 and integrity of whole ecosystems;

16 G. "feral animal" means a domestic animal that is  
17 not under human control and is now living freely;

18 H. "government entity" means a local, state or  
19 federal government agency; a political subdivision of the  
20 state; or an employee, agent or representative of the agency or  
21 political subdivision;

22 I. "person" means an individual, a partnership, a  
23 corporation, an organization, a trade or professional  
24 association, a firm, a limited liability company, a joint  
25 venture, an association, a trust, an estate or any other

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1 nongovernmental legal entity and an officer, member,  
2 shareholder, director, employee, agent or representative of the  
3 nongovernmental legal entity;

4 J. "poison" means a substance applied in a manner  
5 intended to kill;

6 K. "public land" means property that is not  
7 privately owned property or lands belonging to an Indian  
8 nation, tribe or pueblo;

9 L. "scientific research" means an investigation  
10 using commonly accepted scientific techniques or the scientific  
11 method of comparing effects with outcomes experienced by a  
12 control group and that is conducted by employees or contractors  
13 of the department; the United States fish and wildlife service;  
14 or other government agencies, nongovernmental organizations,  
15 educational institutions or individuals who are affiliated with  
16 educational institutions conducting investigations and who have  
17 applied for and received a permit from the department; provided  
18 that any such investigation leads to generalizable knowledge  
19 and is conducted in accordance with a university-based  
20 institutional animal care and use committee, or a similar  
21 process developed in accordance with policies of the United  
22 States public health service commissioned corps, and is not  
23 being conducted for commercial gain from the sale of animal  
24 parts;

25 M. "snare" means a device, with or without stops,

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1 often with a noose, that is used to capture, strangle or  
2 otherwise entangle wildlife;

3 N. "trap" means a device designed to confine,  
4 immobilize or kill an animal for the purpose of moving the  
5 animal, but does not include a catch pole or a leash, when the  
6 catch pole or leash is actively used by a person to temporarily  
7 restrain or relocate an animal; and

8 O. "wildlife" means a member of a vertebrate  
9 species that is native to or found in New Mexico that is not  
10 under the direct control of a human or in captivity; "wildlife"  
11 does not include a feral or escaped domestic animal.

12 SECTION 3. [NEW MATERIAL] PROHIBITIONS--EXCEPTIONS.--

13 A. Notwithstanding any other provision of law, it  
14 is a violation of the New Mexico Wildlife Protection and Public  
15 Safety Act for a person or government entity to:

16 (1) set or use, or attempt to set or use, a  
17 trap to kill or capture wildlife on public land;

18 (2) set or use, or attempt to set or use, a  
19 body-gripping trap to kill or capture any feral or domestic  
20 animal on public land; or

21 (3) apply or use, or attempt to apply or use,  
22 a poison to kill or injure wildlife or a domestic or feral  
23 animal on public land.

24 B. The provisions of Subsection A of this section  
25 shall not prohibit:

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1 (1) the taking of wildlife with firearms,  
2 fishing equipment, archery equipment, falconry equipment or  
3 other implements in hand as authorized by law;

4 (2) the taking of wildlife or feral or  
5 domestic animals by a government entity when use of a  
6 prohibited device or method is the only feasible way to protect  
7 human health and safety;

8 (3) the taking of beaver, muskrats or nutria  
9 by use of a conibear-type trap partially or wholly submerged in  
10 water by a government entity when use of the trap is the only  
11 feasible way to protect public waterways, levees or dams;

12 (4) the taking of wildlife by traps to conduct  
13 scientific research;

14 (5) the use of traps to protect threatened or  
15 endangered species, if used by the department or its agents or  
16 by the United States fish and wildlife service or its agents;

17 (6) the use of confinement traps for the  
18 lawful taking of wildlife or feral animals when use of the trap  
19 is the only feasible way to abate damages caused to property,  
20 crops or livestock. A trap used for this purpose shall be  
21 checked every calendar day by the person who set the trap, or  
22 the person's designee, and any captured wildlife shall be  
23 removed from the trap. Captured wildlife found alive shall be  
24 released immediately, killed immediately in accordance with law  
25 or relocated with permission granted by the department for

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1 relocation and release;

2 (7) the taking of a prairie dog or gopher  
3 using a poison by a government entity when use of the poison is  
4 the only feasible way to abate damages caused to property,  
5 crops or livestock;

6 (8) the taking of a mouse, rat or gopher using  
7 a trap when use of the trap is the only feasible way to abate  
8 damages caused to property, crops or livestock;

9 (9) an employee or agent of a state or federal  
10 agency from acting in the course of the employee's or agent's  
11 duties regarding ecosystem management; or

12 (10) the use of a device or method described  
13 in Subsection A of this section for the otherwise lawful taking  
14 of fish or other nonmammalian aquatic wildlife by the  
15 department or the United States fish and wildlife service.

16 SECTION 4. [NEW MATERIAL] PENALTIES.--

17 A. A person who violates the New Mexico Wildlife  
18 Protection and Public Safety Act is, for a first offense,  
19 guilty of a misdemeanor and shall be sentenced pursuant to the  
20 provisions of Section 31-19-1 NMSA 1978. Upon a second or  
21 subsequent conviction for a violation of that act, the offender  
22 is guilty of a fourth degree felony and shall be sentenced  
23 pursuant to the provisions of Section 31-18-15 NMSA 1978.

24 B. A person who is found to be in violation of the  
25 New Mexico Wildlife Protection and Public Safety Act shall be

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1 strictly liable in a civil action for damages.

2 C. In addition to other penalties, upon conviction,  
3 the court may consider appropriate restitution to a state  
4 agency that incurs costs in enforcing the New Mexico Wildlife  
5 Protection and Public Safety Act.

6 SECTION 5. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2017.

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