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HOUSE BILL 798

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Richard D. Vigil

AN ACT

RELATING TO GAME AND FISH; INCREASING PENALTIES FOR VIOLATIONS  
OF GAME AND FISH LAWS AND RULES.

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

Section 1. Section 17-2-10 NMSA 1978 (being Laws 1931,  
Chapter 117, Section 7, as amended) is amended to read:

"17-2-10. VIOLATION OF GAME AND FISH LAWS OR  
[REGULATIONS] RULES--PENALTIES.--

A. [~~Any~~] A person violating any of the provisions  
of Chapter 17 NMSA 1978 or any [~~regulations~~] rules adopted by  
the state game commission that relate to the time, extent,  
means or manner that game animals, birds or fish may be hunted,  
taken, captured, killed, possessed, sold, purchased or shipped  
is guilty of a misdemeanor and upon conviction may be sentenced  
to imprisonment in the county jail for a term not to exceed

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1     ~~[six months]~~ one year. In addition, the person shall be  
2     sentenced to the payment of a fine in accordance with the  
3     following schedule:

4                     (1) for illegally taking, attempting to take,  
5     killing, capturing or possessing of each deer, antelope,  
6     javelina, bear or cougar during a closed season, a fine of  
7     ~~[four hundred dollars (\$400)]~~ one thousand dollars (\$1,000);

8                     (2) for illegally taking, attempting to take,  
9     killing, capturing or possessing of each elk, bighorn sheep,  
10    oryx, ibex or Barbary sheep, a fine of ~~[one thousand dollars~~  
11    ~~(\$1,000)]~~ two thousand dollars (\$2,000);

12                    (3) for hunting big game without a proper and  
13    valid license, lawfully procured, a fine of ~~[one hundred~~  
14    ~~dollars (\$100)]~~ five hundred dollars (\$500);

15                    (4) for exceeding the bag limit of any big  
16    game species, a fine of ~~[four hundred dollars (\$400)]~~ one  
17    thousand dollars (\$1,000);

18                    (5) for attempting to exceed the bag limit of  
19    any big game species by the hunting of any big game animal  
20    after having tagged a similar big game species, a fine of ~~[two~~  
21    ~~hundred dollars (\$200)]~~ seven hundred fifty dollars (\$750);

22                    (6) for signing a false statement to procure a  
23    resident hunting or fishing license when the applicant is  
24    residing in another state at the time of application for a  
25    license, a fine of four hundred dollars (\$400);

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1 (7) for using a hunting or fishing license  
2 issued to another person, a fine of [~~one hundred dollars~~  
3 ~~(\$100)~~] two hundred fifty dollars (\$250);

4 (8) for a violation of Section 17-2-31 NMSA  
5 1978, a fine of [~~three hundred dollars (\$300)~~] five hundred  
6 dollars (\$500);

7 (9) for selling, offering for sale, offering  
8 to purchase or purchasing any big game animal, unless otherwise  
9 provided by Chapter 17 NMSA 1978, a fine of [~~one thousand~~  
10 ~~dollars (\$1,000)~~] five thousand dollars (\$5,000);

11 (10) for illegally taking, attempting to take,  
12 killing, capturing or possessing of each jaguar, a fine of [~~two~~  
13 ~~thousand dollars (\$2,000)~~] four thousand dollars (\$4,000); and

14 (11) for a violation of the provisions of  
15 Subsection A of Section 17-2A-3 NMSA 1978, a fine of [~~five~~  
16 ~~hundred dollars (\$500)~~] seven hundred fifty dollars (\$750).

17 B. A person convicted a second time for violating  
18 any of the provisions of Chapter 17 NMSA 1978 or any  
19 [~~regulations~~] rules adopted by the state game commission that  
20 relate to the time, extent, means or manner that game animals,  
21 birds or fish may be hunted, taken, captured, killed,  
22 possessed, sold, purchased or shipped is guilty of a  
23 [~~misdemeanor~~] fourth degree felony and upon conviction may be  
24 sentenced to imprisonment in the county jail for a term [~~of not~~  
25 ~~more than three hundred sixty-four days~~] not to exceed two

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1 years. In addition, the person shall be sentenced to the  
2 payment of a fine in accordance with the following schedule:

3 (1) for illegally taking, attempting to take,  
4 killing, capturing or possessing of each deer, antelope,  
5 javelina, bear or cougar during a closed season, a fine of [~~six~~  
6 ~~hundred dollars (\$600)~~] two thousand dollars (\$2,000);

7 (2) for illegally taking, attempting to take,  
8 killing, capturing or possessing of each elk, bighorn sheep,  
9 oryx, ibex or Barbary sheep, a fine of [~~one thousand five~~  
10 ~~hundred dollars (\$1,500)~~] three thousand dollars (\$3,000);

11 (3) for hunting big game without a proper and  
12 valid license, lawfully procured, a fine of [~~four hundred~~  
13 ~~dollars (\$400)~~] one thousand dollars (\$1,000);

14 (4) for exceeding the bag limit of any big  
15 game species, a fine of [~~six hundred dollars (\$600)~~] two  
16 thousand dollars (\$2,000);

17 (5) for attempting to exceed the bag limit of  
18 any big game species by the hunting of any big game animal  
19 after having tagged a similar big game species, a fine of [~~six~~  
20 ~~hundred dollars (\$600)~~] one thousand dollars (\$1,000);

21 (6) for signing a false statement to procure a  
22 resident hunting or fishing license when the applicant is  
23 residing in another state at the time of application for a  
24 license, a fine of six hundred dollars (\$600);

25 (7) for using a hunting or fishing license

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1 issued to another person, a fine of [~~two hundred fifty dollars~~  
2 ~~(\$250)~~] five hundred fifty dollars (\$550);

3 (8) for a violation of Section 17-2-31 NMSA  
4 1978, a fine of [~~five hundred dollars (\$500)~~] seven hundred  
5 fifty dollars (\$750);

6 (9) for selling, offering for sale, offering  
7 to purchase or purchasing any big game animal, unless otherwise  
8 provided by Chapter 17 NMSA 1978, a fine of [~~one thousand five~~  
9 ~~hundred dollars (\$1,500)~~] seven thousand dollars (\$7,000);

10 (10) for illegally taking, attempting to take,  
11 killing, capturing or possessing of each jaguar, a fine of  
12 [~~four thousand dollars (\$4,000)~~] six thousand dollars (\$6,000);  
13 and

14 (11) for a violation of the provisions of  
15 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one  
16 thousand dollars (\$1,000).

17 C. Notwithstanding the provisions of  
18 Section 31-18-13 NMSA 1978, a person convicted a third or  
19 subsequent time for violating any of the provisions of Chapter  
20 17 NMSA 1978 or any [~~regulations~~] rules adopted by the state  
21 game commission that relate to the time, extent, means or  
22 manner that game animals, birds or fish may be hunted, taken,  
23 captured, killed, possessed, sold, purchased or shipped is  
24 guilty of a [~~misdemeanor~~] fourth degree felony and upon  
25 conviction may be sentenced to imprisonment in the county jail

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1 for a term of not less than [~~ninety days~~] two years, which  
2 shall not be suspended or deferred, and not more than three  
3 [~~hundred sixty-four days~~] years. In addition, the person shall  
4 be sentenced to the payment of a fine in accordance with the  
5 following schedule:

6 (1) for illegally taking, attempting to take,  
7 killing, capturing or possessing of each deer, antelope,  
8 javelina, bear or cougar during a closed season, a fine of [~~one~~  
9 ~~thousand two hundred dollars (\$1,200)~~] five thousand dollars  
10 (\$5,000);

11 (2) for illegally taking, attempting to take,  
12 killing, capturing or possessing of each elk, bighorn sheep,  
13 oryx, ibex or Barbary sheep, a fine of [~~three thousand dollars~~  
14 ~~(\$3,000)~~] five thousand dollars (\$5,000);

15 (3) for hunting big game without a proper and  
16 valid license, lawfully procured, a fine of [~~one thousand~~  
17 ~~dollars (\$1,000)~~] two thousand dollars (\$2,000);

18 (4) for exceeding the bag limit of any big  
19 game species, a fine of [~~one thousand two hundred dollars~~  
20 ~~(\$1,200)~~] four thousand dollars (\$4,000);

21 (5) for attempting to exceed the bag limit of  
22 any big game species by the hunting of any big game animal  
23 after having tagged a similar big game species, a fine of [~~one~~  
24 ~~thousand dollars (\$1,000)~~] three thousand dollars (\$3,000);

25 (6) for signing a false statement to procure a

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1 resident hunting or fishing license when the applicant is  
2 residing in another state at the time of application for a  
3 license, a fine of one thousand two hundred dollars (\$1,200);

4 (7) for using a hunting or fishing license  
5 issued to another person, a fine of [~~one thousand dollars~~  
6 ~~(\$1,000)~~] two thousand dollars (\$2,000);

7 (8) for a violation of Section 17-2-31 NMSA  
8 1978, a fine of [~~one thousand dollars (\$1,000)~~] two thousand  
9 dollars (\$2,000);

10 (9) for selling, offering for sale, offering  
11 to purchase or purchasing any big game animal, unless otherwise  
12 provided by Chapter 17 NMSA 1978, a fine of [~~three thousand~~  
13 ~~dollars (\$3,000)~~] ten thousand dollars (\$10,000);

14 (10) for illegally taking, attempting to take,  
15 killing, capturing or possessing of each jaguar, a fine of [~~six~~  
16 ~~thousand dollars (\$6,000)~~] ten thousand dollars (\$10,000); and

17 (11) for a violation of the provisions of  
18 Subsection A of Section 17-2A-3 NMSA 1978, a fine of [~~two~~  
19 ~~thousand dollars (\$2,000)~~] three thousand dollars (\$3,000).

20 D. [~~Any~~] A person who is convicted of a violation  
21 of any [~~regulations~~] rules adopted by the state game commission  
22 that relate to the time, extent, means or manner that game  
23 animals, birds or fish may be hunted, taken, captured, killed,  
24 possessed, sold, purchased or shipped or of a violation of any  
25 of the provisions of Chapter 17 NMSA 1978, for which a

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1 punishment is not set forth under this section, shall be fined  
2 not less than [~~fifty dollars (\$50.00)~~] five hundred dollars  
3 (\$500) or more than [~~five hundred dollars (\$500)~~] one thousand  
4 dollars (\$1,000) or imprisoned not more than six months or  
5 both.

6 E. The provisions of this section shall not be  
7 interpreted to prevent, constrain or penalize a Native American  
8 for engaging in activities for religious purposes, as provided  
9 in Section 17-2-14 or 17-2-41 NMSA 1978.

10 F. The provisions of this section shall not apply  
11 to a landowner or lessee, or employee of either of them, who  
12 kills an animal on private land, in which they have an  
13 ownership or leasehold interest, that is threatening human life  
14 or damaging or destroying property, including crops; provided,  
15 however, that the killing is reported to the department of game  
16 and fish within twenty-four hours and before the removal of the  
17 carcass of the animal killed; and provided further that all  
18 actions authorized in this subsection are carried out according  
19 to [~~regulations~~] rules of the department."

20 Section 2. EFFECTIVE DATE.--The effective date of the  
21 provisions of this act is July 1, 2005.

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