HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR HOUSE ENERGY AND NATURAL RESOURCES COMMITTEE SUBSTITUTE FOR HOUSE BILL 149

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

5

1

2

3

6

7 8

9

10

11

12 13

14

15

16

17

18

19

20

21 22

23

24

25

AN ACT

RELATING TO GAME AND FISH; AMENDING AND ENACTING SECTIONS OF CHAPTER 17 NMSA 1978 TO CONSOLIDATE CERTAIN FEES UNDER HUNTING AND FISHING LICENSES; CHANGING LICENSE CLASSES AND FEE STRUCTURES; PROVIDING FOR REDUCED LICENSE RATES FOR NONRESIDENT JUNIOR HUNTERS; PROVIDING FOR A FREE SECOND ROD FOR FISHING; PROVIDING THAT NO OTHER SPECIAL FEES BE COLLECTED TO HUNT OR FISH; PROVIDING FOR THE ORDER OF CHOICES IN DRAWINGS FOR HUNTING; MAKING APPROPRIATIONS.

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

SECTION 1. Section 17-3-2 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 2, as amended) is amended to read:

"17-3-2. CLASSES OF LICENSES.--

A. As used with reference to licenses in Chapter 17 NMSA 1978:

1	(1) "fishing" entitles the licensee to fish
2	for game fish during the open seasons for each species;
3	(2) "[small] game hunting" entitles the
4	licensee to hunt game birds, other than wild turkey, and
5	squirrel during the open seasons for each and to apply for or
6	purchase a license to hunt for deer, antelope, elk, bighorn
7	sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and
8	wild turkey;
9	(3) "deer" entitles the licensee to hunt deer
10	during the open season;
11	[(4) "general hunting" entitles the licensee
12	to hunt deer, squirrel and game birds during the open seasons
13	for each;
14	(5) "general hunting and fishing" entitles the
15	licensee to hunt deer, squirrel and game birds and to fish for
16	game fish during the open seasons for each;
17	$\frac{(6)}{(4)}$ "antelope" entitles the licensee to
18	hunt antelope during the open season;
19	$[\frac{(7)}{(5)}]$ "elk" entitles the licensee to hunt
20	elk during the open season;
21	$[\frac{(8)}{(6)}]$ "bighorn sheep" entitles the
22	licensee to hunt bighorn sheep during the open season;
23	[(9)] <u>(7)</u> "Barbary sheep" entitles the
24	licensee to hunt Barbary sheep during the open season;
25	$[\frac{(10)}{(8)}]$ <u>(8)</u> "javelina" entitles the licensee to
	.185595.11

2	$[\frac{(11)}{(9)}]$ "bear" entitles the licensee to
3	hunt bear during the open season;
4	[$\frac{(12)}{(10)}$ "nongame" entitles the licensee to
5	hunt or take any animal or bird not protected by law;
6	$[\frac{(13)}{(11)}]$ "temporary fishing" entitles the
7	licensee to fish for game fish during a specific period of time
8	indicated on the license;
9	$[\frac{(14)}{(12)}]$ "oryx" entitles the licensee to
10	hunt oryx during the open season;
11	$[\frac{(15)}{(13)}]$ "ibex" entitles the licensee to
12	hunt ibex during the open season;
13	$[\frac{(16)}{(14)}]$ "cougar" entitles the licensee to
14	hunt cougar during the open season;
15	$[\frac{(17)}{(15)}]$ "turkey" entitles the licensee to
16	hunt turkey during the open season;
17	[(18)] <u>(16)</u> "special season turkey" entitles
18	the licensee to hunt turkey during special seasons designated
19	by the state game commission;
20	[(19)] <u>(17)</u> "quality elk" entitles the
21	licensee to hunt elk during a special quality elk season, to be
22	established by the state game commission, when the timing of
23	the season and hunter density is specially regulated and the
24	elk population is managed with an intent to provide the
25	licensee an increased opportunity to take a mature elk;

hunt javelina during the open season;

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

= new	= delet
material :	material]
underscored	[bracketed n

$[\frac{(20)}{(18)}]$ "quality deer" entitles the
licensee to hunt deer during a special quality deer season, to
be established by the state game commission, when the timing of
the season and hunter density is specially regulated and the
deer population is managed with an intent to provide the
licensee an increased opportunity to take a mature deer:

[(21)] (19) "temporary [small] game hunting" entitles the licensee to hunt game birds, except wild turkey, and squirrel during a specific period of time indicated on the license;

 $[\frac{(22)}{(20)}]$ "second rod" entitles the licensee to fish using two fishing rods to fish for game fish during the open seasons for each species; and

 $[\frac{(23)}{(21)}]$ (21) "fishing and $[\frac{(23)}{(21)}]$ game hunting combination" entitles the licensee to hunt squirrel and game birds, other than wild turkey, and to fish for game fish during the open season for each.

- B. A hunting license does not entitle the licensee to hunt, kill or take game animals or birds within or upon a park or enclosure licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or within or upon a game refuge or game management area.
- C. A fishing license does not entitle the licensee to fish for or take fish within or upon a park or enclosure .185595.11

licensed or posted as provided by law or within or upon a privately owned enclosure without consent of the owner or in or on closed waters.

- D. A junior fishing license may be purchased by a resident who has reached the age of twelve years but has not reached the age of eighteen years. A junior fishing license entitles the licensee to fish for game fish during the open season for each species.
- E. A senior fishing license may be purchased by a resident who has reached the age of sixty-five years. A senior fishing license entitles the licensee to fish for game fish during the open season for each species.
- F. A nonresident junior fishing license may be purchased by a nonresident who has reached the age of twelve years but has not reached the age of eighteen years. A nonresident junior fishing license entitles the licensee to fish for game fish during the open season for each species.
- G. A senior [general] game hunting license may be purchased by a resident who has reached the age of sixty-five years. A senior [general] game hunting license entitles the licensee to hunt for [deer] squirrel and game birds, other than wild turkey, during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.

- H. A junior [general], resident or nonresident, game hunting license may be purchased by a [resident] person who has not reached the age of eighteen years. A junior [general] game hunting license entitles the licensee to hunt for [deer] squirrel and game birds, other than wild turkey, during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.
- I. A handicapped fishing license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license may be purchased by a resident who has a developmental disability as defined in Subsection H of Section 43-1-3 NMSA 1978 and who can furnish adequate proof of this disability to the state game commission. A handicapped fishing license entitles the licensee to fish for game fish during the open season for each species.
- J. A handicapped [general] game hunting license may be purchased by a resident who has a severe physical impairment that substantially limits one or more major life activities and who can furnish adequate proof of this disability to the state game commission. A handicapped [general] game hunting license entitles the licensee to hunt for [deer] squirrel and game

birds, other than wild turkey, during the open season for each
species and to apply for or purchase a license to hunt for
deer, antelope, elk, bighorn sheep, Barbary sheep, javelina,
bear, oryx, ibex, cougar and wild turkey.

- K. A fishing license may be obtained at no cost by a resident who has reached the age of seventy years.
- L. A second rod validation may be purchased by either a resident or nonresident. A second rod validation entitles the licensee to fish using two rods for game fish during the open season for each species.
- M. A [junior-senior] junior or a senior elk license may be purchased by a resident who has not reached the age of eighteen years or by a resident who has reached the age of sixty-five years, respectively. A [junior-senior] junior or a senior elk license entitles the licensee to hunt for elk during the open season for that species.
- N. A [junior-senior] junior or a senior deer license may be purchased by a resident who is younger than eighteen years or older than sixty-five years, respectively. A [junior-senior] junior or a senior deer license entitles the licensee to hunt for deer during the open season for that species.
- O. A [junior-senior] junior or a senior fishing and [small] game hunting combination license may be purchased by a resident who is younger than eighteen years or older than

sixty-five years, respectively. A [junior-senior] junior or a senior fishing and [small] game hunting combination license entitles the licensee to fish for game fish or hunt for squirrel and game birds, other than wild turkey, during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.

- P. A disabled veteran fishing and [small] game hunting combination license may be purchased by a resident who has been granted a disability by the federal department of veterans affairs as a result of having served in the armed forces of the United States if the resident submits to the state game commission satisfactory proof that the resident was disabled as a result of having served in the armed forces of the United States. A disabled veteran fishing and [small] game hunting combination license entitles the licensee to fish for game fish or hunt for squirrel and game birds, other than wild turkey, during the open season for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey.
- Q. A military [general] game hunting and fishing license may be purchased by a member of the armed forces of the United States who, for a period of not less than ninety days immediately preceding the date of application for the license,

has been domiciled in New Mexico and has not claimed residency elsewhere for any purpose. A military [general] game hunting and fishing license entitles the licensee to hunt [deer] squirrel and game birds, other than wild turkey, and to fish for game fish during the open seasons for each species and to apply for or purchase a license to hunt for deer, antelope, elk, bighorn sheep, Barbary sheep, javelina, bear, oryx, ibex, cougar and wild turkey."

SECTION 2. Section 17-3-13 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 5, as amended) is amended to read:

"17-3-13. LICENSE FEES.--

A. The director of the department of game and fish shall keep a record of all money received and licenses and permits issued by the department, numbering each class separately. Upon satisfactory proof that a license or permit has been lost before its expiration, the director may issue a duplicate and collect a just and reasonable fee for it as determined by regulation of the state game commission.

B. The director of the department of game and fish shall collect the following fees for each license of the class indicated:

Resident,	fishing	• •	• •		•	•	•	•	•	•	• •	•	\$25.00
Resident,	[small]	game	hunt	ing	•	•		•	•	•	[20	.00]	15.00
Resident,	deer .				•	•		•	•	•	[36	.00]	31.00

1	Resident, [junior-senior] <u>junior or senior</u> ,
2	deer
3	[Resident, general hunting 40.00
4	Resident, general hunting and fishing 59.00]
5	Resident, senior, handicapped, military,
6	[general] <u>game</u> hunting and fishing [28.00] <u>20.00</u>
7	[Resident, junior, general
8	hunting and fishing
9	Resident, fishing and [small] game <u>hunting</u>
10	combination [33.00] <u>30.00</u>
11	Resident, [junior-senior] <u>junior</u> , fishing
12	and [small] game hunting combination [16.00]
13	Resident, disabled veteran, fishing and
14	[small] game hunting combination 10.00
15	Resident, antelope 50.00
16	Resident, elk cow 50.00
17	Resident, elk bull or either sex 80.00
18	Resident, [junior-senior] <u>junior or senior</u> , elk 48.00
19	Resident, bighorn sheep, ram 150.00
20	Resident, bighorn sheep, ewe
21	Resident, Barbary sheep
22	Resident, bear
23	Resident, turkey
24	Resident, cougar
25	Resident, oryx

1	Resident, ibex
2	Resident, javelina
3	Resident, fur dealer
4	Resident, trapper
5	Resident, junior trapper 9.00
6	Nonresident, fishing
7	Nonresident, junior fishing [28.00] <u>15.00</u>
8	Nonresident, [small] game <u>hunting</u> [90.00] <u>65.00</u>
9	Nonresident, deer
10	Nonresident, quality deer
11	Nonresident, bear
12	Nonresident, cougar
13	Nonresident, turkey
14	Nonresident, antelope
15	Nonresident, elk cow
16	Nonresident, elk bull or either sex 525.00
17	Nonresident, quality elk 750.00
18	Nonresident, bighorn sheep 3,150.00
19	Nonresident, Barbary sheep
20	Nonresident, oryx 1,600.00
21	Nonresident, ibex
22	Nonresident, javelina 155.00
23	Nonresident, fur dealer
24	Nonresident, trapper
25	Nonresident, nongame 65.00

Racidant

caniar

	Resident, Senior, nanareappea,	
	fishing)0
	Resident, junior fishing 5.0)0
	Temporary fishing, one day 12.0)0
	Temporary fishing, five days 24.0)0
	Resident, senior, handicapped,	
	[general] game hunting [24.00] 15.0)0
	Resident, junior, [general] game hunting . [15.00] 10.0)0
	Temporary [small] game hunting, four days 33.0)0
	[second rod validation 4.00)]
	Nonresident, junior deer 143.0)0
	Nonresident, junior game hunting 50.0)0
	Nonresident, junior elk 273.00	. "
	SECTION 3. A new section of Chapter 17, Article 3 NMSA	
1978	is enacted to read:	

handiaannad

"[NEW MATERIAL] LICENSE FEES AND HABITAT MANAGEMENT.--

A. The license fees provided for pursuant to Section 17-3-13 NMSA 1978 shall add the habitat management fee collected pursuant to Section 17-4-34 NMSA 1978 and the big game depredation fee collected pursuant to Section 17-3-13.3 NMSA 1978, and no other fee shall be collected for habitat management. The department of game and fish is authorized to collect these fees in addition to and in conjunction with the collection of the license fees.

B. The state game commission shall not adopt a rule .185595.11

that holds a hunter in violation of Chapter 17 NMSA 1978 for
failure to possess a free permit for hunts except those issued
through a special drawing.
C. No additional license fee shall be charged for

C. No additional license fee shall be charged for a second fishing rod."

SECTION 4. Section 17-3-13.3 NMSA 1978 (being Laws 2001, Chapter 213, Section 1) is amended to read:

"17-3-13.3. BIG GAME DEPREDATION DAMAGE [STAMP] FEE
REQUIRED--DISPOSITION OF RECEIPTS.--

A. Each license to hunt big game shall include a big game depredation damage [stamp] fee. The department of game and fish shall, by rule, set the fee [for the stamp; provided that the fee shall] not to exceed [five dollars (\$5.00)] three dollars (\$3.00) for each resident license or ten dollars (\$10.00) for each nonresident license.

[B. No license to hunt big game shall be considered to be a proper and valid license unless it indicates, by a stamp, check off or other official mark, that the fee for the big game depredation damage stamp has been paid.

G.] B. Revenues received by the department of game and fish from the [sale of] big game depredation damage
[stamps] fees shall be deposited to the credit of the big game depredation damage fund."

SECTION 5. Section 17-3-13.4 NMSA 1978 (being Laws 2001, Chapter 213, Section 2) is amended to read:

"17-3-13.4. BIG GAME DEPREDATION DAMAGE FUND--CREATION-EXPENDITURE.--

A. The "big game depredation damage fund" is created in the state treasury. The fund consists of appropriations made to the fund, revenues received by the department of game and fish, [from the sale of big game depredation damage stamps] fees collected with each big game hunting license issued pursuant to Sections 17-3-13 and 17-3-13.3 NMSA 1978 and earnings from the investment of the fund. The fund shall be administered by the department, and money in the fund is appropriated to the department to carry out the provisions of Subsection B of this section. Payments from the fund shall be by warrant of the secretary of finance and administration upon vouchers signed by the director of the department or [his] the director's authorized representative. Balances in the fund shall not revert to any other fund.

B. The department of game and fish shall, by rule, establish a program to correct damage to federal, state or private land caused by big game and to prevent such damage in the future. Pursuant to rules adopted by the department, expenditures from the big game depredation damage fund shall be made by the department to carry out the established program; provided that money in the fund shall not be expended for any administrative costs."

SECTION 6. Section 17-4-34 NMSA 1978 (being Laws 2005, .185595.11

1	Chapter 1//, Section 2) is amended to read:
2	"17-4-34. HABITAT MANAGEMENT [STAMP] FEEFUND
3	EXPENDITURE FOR HABITAT MANAGEMENTEXCEPTION
4	A. [On and after April 1, 2006] Each of the
5	following licenses or permits shall include a habitat
6	management [$\frac{1}{1}$ stamp] $\frac{1}{1}$ management $\frac{1}{1}$ habitat management
7	[stamp]:
8	(1) shall be [three dollars (\$3.00). Each of
9	the following licenses or permits shall not be considered to be
10	a proper and valid license unless the licensee can demonstrate,
11	by a stamp, check off or other official mark, that the fee for
12	the habitat management stamp has been paid, provided that an
13	individual purchaser shall be required to purchase only one
14	stamp each license year, regardless of the number of licenses
15	or permits purchased by that purchaser] eight dollars (\$8.00)
16	<pre>for:</pre>
17	[(l)] <u>(a)</u> a resident or nonresident <u>game</u>
18	hunting or fishing license specified in Section 17-3-13 NMSA
19	1978; or
20	[(2)] <u>(b)</u> a wildlife-associated
21	recreation permit issued by the state game commission pursuant
22	to Section [17-1-4] <u>17-1-14</u> NMSA 1978; <u>provided that the state</u>
23	game commission shall be permitted to modify the habitat
24	management fee; and
25	(2) shall include one dollar (\$1.00) of the
	.185595.11

5

.185595.11

habitat management fee to be used for leasing or purchasing of properties or acquisition of easements for hunting, fishing or trapping.

- B. Revenue from the [sale of] habitat management [stamps] fee shall be deposited in the "habitat management fund", hereby created in the state treasury. The fund shall consist of money appropriated and transferred to the fund and revenue from the sale of habitat management [stamps] fees deposited in the fund. Earnings from investment of the fund shall be credited to the fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the department of game and fish.
- C. Upon appropriation by the legislature, money in the habitat management fund may be expended by the state game commission only for the improvement, maintenance, development and operation of [property] United States forest service and bureau of land management property and property managed pursuant to agreement with the department of game and fish or by the department for fish and wildlife habitat management.

 The department of game and fish shall enter into agreements with the United States forest service and the bureau of land management prior to expenditure of money to ensure the fund is

apportioned for reasonable and appropriate habitat improvement
projects on those lands. The department shall not use the fund
to cover administrative expenses above those associated with
the cost of employing one full-time program manager and that
manager's operational expenses.

D. A habitat management [stamp] fee shall not be required for persons under the age of eighteen."

SECTION 7. A new section of Chapter 17, Article 3 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DRAWINGS FOR HUNTING.--When conducting a drawing for a hunt code, the director of the department of game and fish shall allot all first choices before allotting any subsequent choices; thereafter, all second choices before allotting subsequent choices; and thereafter, all subsequent choices."

SECTION 8. Section 17-2-1 NMSA 1978 (being Laws 1931, Chapter 117, Section 3, as amended) is amended to read:

"17-2-1. COMMISSION POWERS.--The state game commission, in addition to the powers now vested in it and not as a limitation of those powers, is expressly authorized and empowered by regulation adopted and promulgated in the manner provided in Chapter 17 NMSA 1978 to:

- A. define game birds, game animals and game fish;
- B. establish open and closed seasons for the killing or taking of all kinds of game animals, game birds and .185595.11

game fish and to change such open seasons from year to year and to fix different seasons for different parts of the state;

- C. establish bag limits covering all kinds of game animals, game birds and game fish and the numbers thereof [which] that may be killed or taken by any one person during any one day or during any one open season;
- D. authorize or prohibit the killing or taking of any game animals, game birds or game fish of any kind or sex;
- E. prescribe the manner, methods and devices [which] that may be used in hunting, taking or killing game animals, game birds and game fish;
- F. prescribe rules and regulations to prohibit any vehicle or vehicles used in transporting persons engaged in hunting, taking or killing game animals, game birds and game fish from leaving established roadways; and
- G. appoint one or more advisory committees to furnish advice, evaluations and recommendations for wildlife management projects utilizing revenue derived from the sale of public land management [stamps] fees. The advisory committees shall be created pursuant to the procedures of Section 9-1-9 NMSA 1978, provided that the restrictions on the life of advisory committees contained in Subsection F of that section shall not be applicable."
- **SECTION 9.** EFFECTIVE DATE.--The effective date of the provisions of this act is April 1, 2012.