HOUSE BILL 55

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Alonzo Baldonado

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF CHAPTER 17 NMSA 1978 TO PROVIDE STRICTER PENALTIES FOR MAJOR VIOLATIONS AND A PENALTY ASSESSMENT OPTION FOR A MINOR VIOLATION OF HUNTING AND FISHING INFRACTIONS.

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

SECTION 1. Section 17-2-7 NMSA 1978 (being Laws 1931, Chapter 117, Section 8, as amended) is amended to read:

"17-2-7. UNLAWFUL HUNTING OR FISHING.--

A. Except as permitted by regulations adopted by the state game commission or as otherwise allowed by law, it is unlawful to:

(1) hunt, take, capture, kill or attempt to take, capture or kill, at any time or in any manner, any game animal, game bird or game fish in the state; or

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(2) possess, offer for sale, sell, offer to purchase or purchase in the state all or any part of any game animal, game bird or game fish.

B. Notwithstanding any other law, the owner of domestic livestock in this state or [his] the owner's regular employee may hunt, take, capture or kill any cougar or bear [which] that has killed domestic livestock. The owner of livestock or [his] the owner's regular employee who takes action under this provision [will] shall report this action to the department of game and fish, [who will] which shall verify the necessity of the action taken.

C. Violation of this section [is a misdemeanor and] shall be punished as provided in Section 17-2-10 NMSA 1978.

D. The provisions of this section shall not be deemed to prohibit the possession of game animals, birds or fish taken legally in any other jurisdiction."

SECTION 2. Section 17-2-8 NMSA 1978 (being Laws 1977, Chapter 70, Section 1) is amended to read:

"17-2-8. UNLAWFUL TAKING OF BIG GAME AND WASTE OF GAME.--

A. It is unlawful for any person: [A. who hunts or fishes and takes any game mammal designated in Paragraphs (2), (3) or (4) of Subsection A of Section 53-2-3 NMSA 1953, any game bird or any game fish to fail to transport the edible portions of the meat obtained to his home for human consumption or to provide for the human
consumption thereof under any commission regulations pertaining
to exportation, transportation and donation of game; or

B. who wounds or may have wounded any game mammal
designated in Paragraphs (2), (3) or (4) of Subsection A of
Section 53-2-3 NMSA 1953 to fail to go to the place where the
mammal sustained or may have sustained the wound and make a
reasonable attempt to track the mammal and reduce it to
possession]

(1) to take or kill a bighorn sheep, ibex,
oryx, elk, deer or pronghorn antelope outside of the legal
season or without a valid license that results in the
unnecessary and wanton waste of the game as contrary to
adoption of state game commission rule;

(2) who hunts or fishes and takes any game
mammal designated in Paragraph (2), (3) or (4) of Subsection A
of Section 17-2-3 NMSA 1978, any game bird or any game fish to
fail to transport the edible portions of the meat obtained to
the person's home for human consumption or to provide for the
human consumption thereof under any state game commission rules
pertaining to exportation, transportation and donation of game;
or

(3) who wounds or may have wounded any game
mammal designated in Paragraph (2), (3) or (4) of Subsection A
of Section 17-2-3 NMSA 1978 to fail to go to the place where
the mammal sustained or may have sustained the wound and make a
reasonable attempt to track the mammal and reduce it to possession.

B. Violation of Paragraph (1) of Subsection A of this section is a fourth degree felony pursuant to Section 31-18-15 NMSA 1978, and violation of Paragraph (2) or (3) of Subsection A of this section is a misdemeanor pursuant to Section 31-19-1 NMSA 1978.

SECTION 3. 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, except for Section 17-2-8 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 six months] pursuant to Section 31-19-1 NMSA 1978. In addition, the person shall be sentenced to the payment of a fine in accordance with the following schedule:

(1) for illegally taking, attempting to take, killing, capturing or possessing of each deer, antelope, javelina, bear or cougar during a closed season, a fine of four
hundred dollars ($400);

(2) for illegally taking, attempting to take, killing, capturing or possessing of each elk, bighorn sheep, oryx, ibex or Barbary sheep, a fine of one thousand dollars ($1,000);

(3) for hunting big game without a proper and valid license, lawfully procured, a fine of one hundred dollars ($100);

(4) for exceeding the bag limit of any big game species, a fine of four hundred dollars ($400);

(5) for attempting to exceed the bag limit of any big game species by the hunting of any big game animal after having tagged a similar big game species, a fine of two hundred dollars ($200);

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

(7) for using a hunting or fishing license issued to another person, a fine of one hundred dollars ($100);

(8) for a violation of Section 17-2-31 NMSA 1978, a fine of three hundred dollars ($300);

(9) for selling, offering for sale, offering to purchase or purchasing any big game animal, unless otherwise provided by Chapter 17 NMSA 1978, a fine of one thousand
dollars ($1,000);

(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of two thousand dollars ($2,000); and

(11) for a violation of the provisions of Subsection A of Section 17-2A-3 NMSA 1978, a fine of five hundred dollars ($500).

B. A person convicted a second time for violating any of the provisions of Chapter 17 NMSA 1978, except for Section 17-2-8 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 of not more than three hundred sixty-four days] pursuant to Section 31-19-1 NMSA 1978. In addition, the person shall be sentenced to the payment of a fine in accordance with the following schedule:

(1) for illegally taking, attempting to take, killing, capturing or possessing of each deer, antelope, javelina, bear or cougar during a closed season, a fine of six hundred dollars ($600);

(2) for illegally taking, attempting to take, killing, capturing or possessing of each elk, bighorn sheep, oryx, ibex or Barbary sheep, a fine of one thousand five
hundred dollars ($1,500);

(3) for hunting big game without a proper and valid license, lawfully procured, a fine of four hundred dollars ($400);

(4) for exceeding the bag limit of any big game species, a fine of six hundred dollars ($600);

(5) for attempting to exceed the bag limit of any big game species by the hunting of any big game animal after having tagged a similar big game species, a fine of six hundred dollars ($600);

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

(7) for using a hunting or fishing license issued to another person, a fine of two hundred fifty dollars ($250);

(8) for a violation of Section 17-2-31 NMSA 1978, a fine of five hundred dollars ($500);

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

(10) for illegally taking, attempting to take, killing, capturing or possessing of each jaguar, a fine of four hundred dollars ($400).
thousand dollars ($4,000); and

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

C. Notwithstanding the provisions of Section 31-18-13 NMSA 1978, a person convicted a third or subsequent time for violating any of the provisions of Chapter 17 NMSA 1978, except for Section 17-2-8 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 of not less than ninety days, which shall not be suspended or deferred, and not more than three hundred sixty-four days. In addition, the person shall be sentenced to the payment of a fine in accordance with the following schedule:

(1) for illegally taking, attempting to take, killing, capturing or possessing of each deer, antelope, javelina, bear or cougar during a closed season, a fine of one thousand two hundred dollars ($1,200);

(2) for illegally taking, attempting to take, killing, capturing or possessing of each elk, bighorn sheep, oryx, ibex or Barbary sheep, a fine of three thousand dollars

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(3) for hunting big game without a proper and valid license, lawfully procured, a fine of one thousand dollars ($1,000);

(4) for exceeding the bag limit of any big game species, a fine of one thousand two hundred dollars ($1,200);

(5) for attempting to exceed the bag limit of any big game species by the hunting of any big game animal after having tagged a similar big game species, a fine of one thousand dollars ($1,000);

(6) for signing a false statement to procure a resident hunting or fishing license when the applicant is residing in another state at the time of application for a license, a fine of one thousand two hundred dollars ($1,200);

(7) for using a hunting or fishing license issued to another person, a fine of one thousand dollars ($1,000);

(8) for a violation of Section 17-2-31 NMSA 1978, a fine of one thousand dollars ($1,000);

(9) for selling, offering for sale, offering to purchase or purchasing any big game animal, unless otherwise provided by Chapter 17 NMSA 1978, a fine of three thousand dollars ($3,000);

(10) for illegally taking, attempting to take,
killing, capturing or possessing of each jaguar, a fine of six
thousand dollars ($6,000); and

(11) for a violation of the provisions of
Subsection A of Section 17-2A-3 NMSA 1978, a fine of two
thousand dollars ($2,000).

D. [Any] A person who is convicted of a violation
of 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 or of a violation of any
of the provisions of Chapter 17 NMSA 1978, for which a
punishment is not set forth under this section, shall be fined
[not less than fifty dollars ($50.00) or more than five hundred
dollars ($500)] or imprisoned [not more than six months or
both] pursuant to Section 31-19-1 NMSA 1978.

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

F. The provisions of this section shall not
apply to a landowner or lessee, or employee of either of them,
who kills an animal on private land, in which they have an
ownership or leasehold interest, that is threatening human life
or damaging or destroying property, including crops; provided,
however, that the killing is reported to the department of game

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and fish within twenty-four hours and before the removal of the
carcass of the animal killed; and provided further that all
actions authorized in this subsection are carried out according
to [regulations] rules of the department."

SECTION 4. Section 17-2-10.1 NMSA 1978 (being Laws 1995,
Chapter 177, Section 1) is amended to read:

"17-2-10.1. GAME AND FISH PENALTY ASSESSMENT
MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in Chapter 17 NMSA 1978, "penalty
assessment misdemeanor" means a violation of any of the
following listed sections of the NMSA 1978 for which the listed
penalty assessment is established:

<table>
<thead>
<tr>
<th>COMMON NAME OF OFFENSE</th>
<th>SECTION VIOLATED</th>
<th>PENALTY ASSESSMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fishing, hunting or trapping</td>
<td>17-2-7</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Fishing without a license</td>
<td>17-3-17</td>
<td>$ 75.00</td>
</tr>
<tr>
<td>Hunting small game without</td>
<td>17-3-1</td>
<td>$100.00</td>
</tr>
<tr>
<td>a license</td>
<td></td>
<td></td>
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</tbody>
</table>

Manner and method rule
infraction contrary to adoption
by state game commission rule | 17-2-7 | $125.00 |

B. When an alleged violator of a penalty assessment

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misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment misdemeanor.

C. With the penalty assessment collected for each penalty assessment misdemeanor pursuant to this section, there shall be assessed and collected the cost of the appropriate license and validation that the violator failed to produce. Upon presentation of proof of payment of the penalty assessment, the director of the department of game and fish shall issue the appropriate license and validation."

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