

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

.191166.2SA

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

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

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

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

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

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

19 "17-2-8. UNLAWFUL TAKING OF BIG GAME AND WASTE OF GAME.--

20 A. It is unlawful for any person:

21 [~~A. who hunts or fishes and takes any game mammal~~
22 ~~designated in Paragraphs (2), (3) or (4) of Subsection A of~~
23 ~~Section 53-2-3 NMSA 1953, any game bird or any game fish to~~
24 ~~fail to transport the edible portions of the meat obtained to~~
25 ~~his home for human consumption or to provide for the human~~

.191166.2SA

underscored material = new
[bracketed material] = delete

1 ~~consumption thereof under any commission regulations pertaining~~
2 ~~to exportation, transportation and donation of game; or~~

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

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

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

22 (3) who wounds or may have wounded any game
23 mammal designated in Paragraph (2), (3) or (4) of Subsection A
24 of Section 17-2-3 NMSA 1978 to fail to go to the place where
25 the mammal sustained or may have sustained the wound and make a

.191166.2SA

underscored material = new
[bracketed material] = delete

1 reasonable attempt to track the mammal and reduce it to
2 possession.

3 B. Violation of Paragraph (1) of Subsection A of
4 this section is a fourth degree felony pursuant to Section
5 31-18-15 NMSA 1978, and violation of Paragraph (2) or (3) of
6 Subsection A of this section is a misdemeanor pursuant to
7 Section 31-19-1 NMSA 1978."

8 SECTION 3. Section 17-2-10 NMSA 1978 (being Laws 1931,
9 Chapter 117, Section 7, as amended) is amended to read:

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

12 A. [~~Any~~] A person violating any of the provisions
13 of Chapter 17 NMSA 1978, except for Section 17-2-8 NMSA 1978,
14 or any [~~regulations~~] rules adopted by the state game commission
15 that relate to the time, extent, means or manner that game
16 animals, birds or fish may be hunted, taken, captured, killed,
17 possessed, sold, purchased or shipped is guilty of a
18 misdemeanor and upon conviction may be sentenced to
19 imprisonment in the county jail [~~for a term not to exceed six~~
20 ~~months~~] pursuant to Section 31-19-1 NMSA 1978. In addition,
21 the person shall be sentenced to the payment of a fine in
22 accordance with the following schedule:

23 (1) for illegally taking, attempting to take,
24 killing, capturing or possessing of each deer, antelope,
25 javelina, bear or cougar during a closed season, a fine of four

1 hundred dollars (\$400);

2 (2) for illegally taking, attempting to take,
3 killing, capturing or possessing of each elk, bighorn sheep,
4 oryx, ibex or Barbary sheep, a fine of one thousand dollars
5 (\$1,000);

6 (3) for hunting big game without a proper and
7 valid license, lawfully procured, a fine of one hundred dollars
8 (\$100);

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

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

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

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

21 (8) for a violation of Section 17-2-31 NMSA
22 1978, a fine of three hundred dollars (\$300);

23 (9) for selling, offering for sale, offering
24 to purchase or purchasing any big game animal, unless otherwise
25 provided by Chapter 17 NMSA 1978, a fine of one thousand

.191166.2SA

underscored material = new
[bracketed material] = delete

1 dollars (\$1,000);

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

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

8 B. A person convicted a second time for violating
9 any of the provisions of Chapter 17 NMSA 1978, except for
10 Section 17-2-8 NMSA 1978, or any [~~regulations~~] rules adopted by
11 the state game commission that relate to the time, extent,
12 means or manner that game animals, birds or fish may be hunted,
13 taken, captured, killed, possessed, sold, purchased or shipped
14 is guilty of a misdemeanor and upon conviction may be sentenced
15 to imprisonment in the county jail [~~for a term of not more than~~
16 ~~three hundred sixty-four days~~] pursuant to Section 31-19-1 NMSA
17 1978. In addition, the person shall be sentenced to the
18 payment of a fine in accordance with the following schedule:

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

23 (2) for illegally taking, attempting to take,
24 killing, capturing or possessing of each elk, bighorn sheep,
25 oryx, ibex or Barbary sheep, a fine of one thousand five

.191166.2SA

underscored material = new
~~[bracketed material] = delete~~

1 hundred dollars (\$1,500);

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

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

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

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

15 (7) for using a hunting or fishing license
16 issued to another person, a fine of two hundred fifty dollars
17 (\$250);

18 (8) for a violation of Section 17-2-31 NMSA
19 1978, a fine of five hundred dollars (\$500);

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

24 (10) for illegally taking, attempting to take,
25 killing, capturing or possessing of each jaguar, a fine of four

.191166.2SA

underscored material = new
[bracketed material] = delete

1 thousand dollars (\$4,000); and

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

5 C. Notwithstanding the provisions of
6 Section 31-18-13 NMSA 1978, a person convicted a third or
7 subsequent time for violating any of the provisions of Chapter
8 17 NMSA 1978, except for Section 17-2-8 NMSA 1978, or any
9 [~~regulations~~] rules adopted by the state game commission that
10 relate to the time, extent, means or manner that game animals,
11 birds or fish may be hunted, taken, captured, killed,
12 possessed, sold, purchased or shipped is guilty of a
13 misdemeanor and upon conviction may be sentenced to
14 imprisonment in the county jail for a term of not less than
15 ninety days, which shall not be suspended or deferred, and not
16 more than three hundred sixty-four days. In addition, the
17 person shall be sentenced to the payment of a fine in
18 accordance with the following schedule:

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

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

.191166.2SA

1 (\$3,000);

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

5 (4) for exceeding the bag limit of any big
6 game species, a fine of one thousand two hundred dollars
7 (\$1,200);

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

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

16 (7) for using a hunting or fishing license
17 issued to another person, a fine of one thousand dollars
18 (\$1,000);

19 (8) for a violation of Section 17-2-31 NMSA
20 1978, a fine of one thousand dollars (\$1,000);

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

25 (10) for illegally taking, attempting to take,

.191166.2SA

underscored material = new
[bracketed material] = delete

1 killing, capturing or possessing of each jaguar, a fine of six
2 thousand dollars (\$6,000); and

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

6 D. ~~Any~~ A person who is convicted of a violation
7 of any ~~regulations~~ rules adopted by the state game commission
8 that relate to the time, extent, means or manner that game
9 animals, birds or fish may be hunted, taken, captured, killed,
10 possessed, sold, purchased or shipped or of a violation of any
11 of the provisions of Chapter 17 NMSA 1978, for which a
12 punishment is not set forth under this section, shall be fined
13 ~~[not less than fifty dollars (\$50.00) or more than five hundred~~
14 ~~dollars (\$500)]~~ or imprisoned ~~[not more than six months or~~
15 ~~both]~~ pursuant to Section 31-19-1 NMSA 1978.

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

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

.191166.2SA

underscored material = new
[bracketed material] = delete

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

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

7 "17-2-10.1. GAME AND FISH PENALTY ASSESSMENT
8 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

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

13	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
14	<u>Fishing, hunting or trapping</u>		
15	<u>without the proper stamp or</u>		
16	<u>validation as required by law</u>		
17	<u>or adopted by state game</u>		
18	<u>commission rule</u>	17-2-7	\$ 50.00
19	Fishing without a license	17-3-17	\$ 75.00
20	Hunting small game without		
21	a license	17-3-1	\$100.00
22	<u>Manner and method rule</u>		
23	<u>infraction contrary to adoption</u>		
24	<u>by state game commission rule</u>	17-2-7	\$125.00.

25 B. When an alleged violator of a penalty assessment

underscoring material = new
~~[bracketed material] = delete~~

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

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