

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website ([www.nmlegis.gov](http://www.nmlegis.gov)). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

ORIGINAL DATE 01/18/13  
 SPONSOR Baldonado LAST UPDATED 03/01/13 HB 55/aHJC/aHF1#1  
 SHORT TITLE Hunting & Fishing Infraction Penalties SB \_\_\_\_\_  
 ANALYST McCoy

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	See Discussion		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	\$37.1	\$37.1	Recurring	Game Protection Fund

(Parenthesis ( ) Indicate Revenue Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$37.1	\$37.1	\$74.2	Recurring	Game Protection Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Game and Fish (DGF)

### SUMMARY

#### Synopsis of HF1 #1 Amendment

The House Floor #1 amendment to House Bill 55 adds the language to define what constitutes waste of the animal. Waste of an animal consists of removing from the animal only the head,

antlers or horns or leaving any of the four quarters, back straps or tenderloins of the carcass to waste. According to the Department of Game and Fish, this will prevent any conflict in interpretation between violators and law enforcement officers and eliminating the need for State Game Commission rule to define as it applies to this section.

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 55 adds the term Barbary sheep to the list of species in section 17-2-8. Additionally, the amendment to HB 55 also removes the line-through the provision on page 10, lines 16 through 19, which maintains the provision indicating these sections shall not be interpreted to prevent, constrain or penalize a Native American for engaging in activities for religious purposes.

#### Synopsis of Original Bill

House Bill 55 (HB 55) proposes amending Section 17-2-8 NMSA 1978 to make it a fourth degree felony for a person to kill a bighorn sheep, ibex, oryx, elk, deer or pronghorn antelope outside of the legal season or without a valid license when it results in the unnecessary and wanton waste of the game, as such waste is defined by the State Game Commission. Sentencing would be in accordance with Section 31-18-15 NMSA 1978, which provides for imprisonment up to 18 months and a fine of up to \$5 thousand. HB 55 also proposes changing language in Section 17-2-10 NMSA 1978 to ensure that the potential incarceration for the misdemeanor violations in this statute is consistent with the misdemeanor sentencing authority under Section 31-19-1 NMSA 1978, which provides for imprisonment up to 1 year and/or a fine of up to \$1 thousand.

### **FISCAL IMPLICATIONS**

The Department of Game and Fish (DGF) estimate the new categories of penalty assessments may result in 500 to 700 violators selecting the penalty assessment option for manner and method violations and 100 to 200 violators selecting the penalty assessment option for stamp or validation violations. Assuming a 55 percent compliance rate, the Department estimates it will collect \$37,125 to \$53,625 in assessments. Currently, revenues to the Department from the penalty assessments are virtually equal to expenses the Department incurs in administering the program such as personnel costs related to tracking payments, postage and equipment. The Department expects that the increased costs created by the additional penalty assessments will be offset by the estimated additional revenues, and the amount of training to implement the changes in law would be nominal. In addition to the potential benefits to hunters and anglers, penalty assessment options reduce the amount of time the DGF conservation officers spend preparing, traveling and appearing in court, and thus would allow them to spend more time in the field.

### **SIGNIFICANT ISSUES**

Currently, there are only two penalty assessments contained in section 17-2-10.1 NMSA 1978: fishing without a license - \$75.00; and hunting small game without a license - \$100.00. HB 55 proposes to categorize the following minor game and fish violations as penalty assessment violations with the following fines: fishing, hunting or trapping without the proper stamp or validation - \$50.00; and manner and method infractions established by the State Game Commission -\$125.00. These newly categorized violations are already prohibited under Section

17-2-7 NMSA 1978 and are subject to a penalty of \$50 to \$500. This bill limits the maximum penalty for these newly categorized violations and gives persons who are cited the option of paying the penalty assessment for these newly categorized violations without having to go to court. For each penalty assessment collected the violator will also have to pay the cost of the appropriate stamp or validation that the violator failed to produce. The Department will issue a new stamp or validation only when the violator provides proof of payment of the penalty assessment. HB 55 also deletes the provision indicating these sections shall not be interpreted to prevent, constrain or penalize a Native American for engaging in activities for religious purposes.

### **TECHNICAL ISSUES**

The DGF notes the need to add Barbary Sheep to the list of species in section 17-2-8, as this species was inadvertently omitted from the bill.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The DGF notes its personnel will continue to charge persons for violations if the bill is not enacted; however, violators will not have the option of paying a fine for the newly categorized violations, but will have to appear in court which will necessitate the DGF personnel making court appearances.

MTM/svb:blm