

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 92

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF CHAPTER 17 NMSA
1978 TO PROVIDE STRICTER PENALTIES FOR MAJOR VIOLATIONS.

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

SECTION 1. 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.] (1) 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~~] 17-2-3 NMSA 1978,
any game bird or any game fish to fail to transport the edible
portions of the meat obtained to [~~his~~] the person's home for
human consumption or to provide for the human consumption
thereof under any commission regulations pertaining to

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1 exportation, transportation and donation of game; [~~or~~

2 ~~B.]~~ (2) who wounds or may have wounded any
3 game mammal designated in Paragraphs (2), (3) or (4) of
4 Subsection A of Section [~~53-2-3 NMSA 1953~~] 17-2-3 NMSA 1978 to
5 fail to go to the place where the mammal sustained or may have
6 sustained the wound and make a reasonable attempt to track the
7 mammal and reduce it to possession; or

8 (3) to take or kill a bighorn sheep, ibex,
9 oryx, Barbary sheep, elk, deer or pronghorn antelope outside of
10 the legal season or without a valid license, which taking or
11 killing results in waste of the animal. Waste of the animal
12 consists of removing from the animal only the head, antlers or
13 horns or abandoning any of the four quarters, backstraps or
14 tenderloins of the carcass. A violation of the provisions of
15 this paragraph is intended to be separate from and cumulative
16 to any other violation of Chapter 17 NMSA 1978.

17 B. Violation of Paragraph (3) of Subsection A of
18 this section is a fourth degree felony pursuant to Section
19 31-18-15 NMSA 1978, and violation of Paragraph (1) or (2) of
20 Subsection A of this section is a misdemeanor pursuant to
21 Section 17-2-10 NMSA 1978."

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

24 "17-2-10. VIOLATION OF GAME AND FISH LAWS OR
25 [~~REGULATIONS~~] RULES--PENALTIES.--

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

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

16 (2) for illegally taking, attempting to take,
17 killing, capturing or possessing of each elk, bighorn sheep,
18 oryx, ibex or Barbary sheep, a fine of one thousand dollars
19 (\$1,000);

20 (3) for hunting big game without a proper and
21 valid license, lawfully procured, a fine of one hundred dollars
22 (\$100);

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

25 (5) for attempting to exceed the bag limit of

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1 any big game species by the hunting of any big game animal
2 after having tagged a similar big game species, a fine of two
3 hundred dollars (\$200);

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

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

10 (8) for a violation of Section 17-2-31 NMSA
11 1978, a fine of three hundred dollars (\$300);

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

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

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

22 B. A person convicted a second time for violating
23 any of the provisions of Chapter 17 NMSA 1978, except for the
24 felony provision of Section 17-2-8 NMSA 1978, or any
25 [~~regulations~~] rules adopted by the state game commission that

1 relate to the time, extent, means or manner that game animals,
2 birds or fish may be hunted, taken, captured, killed,
3 possessed, sold, purchased or shipped is guilty of a
4 misdemeanor and upon conviction [~~may~~] shall be sentenced [~~to~~
5 ~~imprisonment in the county jail for a term of not more than~~
6 ~~three hundred sixty-four days~~] pursuant to Section 31-19-1 NMSA
7 1978. In addition, the person shall be sentenced to the
8 payment of a fine in accordance with the following schedule:

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

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

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

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

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

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

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

8 (8) for a violation of Section 17-2-31 NMSA
9 1978, a fine of five hundred dollars (\$500);

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 one thousand five
13 hundred dollars (\$1,500);

14 (10) for illegally taking, attempting to take,
15 killing, capturing or possessing of each jaguar, a fine of four
16 thousand dollars (\$4,000); and

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

20 C. Notwithstanding the provisions of Section
21 31-18-13 NMSA 1978, a person convicted a third or subsequent
22 time for violating any of the provisions of Chapter 17 NMSA
23 1978, except for the felony provision of Section 17-2-8 NMSA
24 1978, or any [~~regulations~~] rules adopted by the state game
25 commission that relate to the time, extent, means or manner

1 that game animals, birds or fish may be hunted, taken,
2 captured, killed, possessed, sold, purchased or shipped is
3 guilty of a misdemeanor and upon conviction [~~may~~] shall be
4 sentenced to imprisonment in the county jail for a term of not
5 less than ninety days, which shall not be suspended or deferred
6 [~~and not more than three hundred sixty-four days~~]. In
7 addition, the person shall be sentenced to the payment of a
8 fine in accordance with the following schedule:

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

13 (2) for illegally taking, attempting to take,
14 killing, capturing or possessing of each elk, bighorn sheep,
15 oryx, ibex or Barbary sheep, a fine of three thousand dollars
16 (\$3,000);

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

20 (4) for exceeding the bag limit of any big
21 game species, a fine of one thousand two hundred dollars
22 (\$1,200);

23 (5) for attempting to exceed the bag limit of
24 any big game species by the hunting of any big game animal
25 after having tagged a similar big game species, a fine of one

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1 thousand dollars (\$1,000);

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

6 (7) for using a hunting or fishing license
7 issued to another person, a fine of one thousand dollars
8 (\$1,000);

9 (8) for a violation of Section 17-2-31 NMSA
10 1978, a fine of one thousand dollars (\$1,000);

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

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

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

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

1 of the provisions of Chapter 17 NMSA 1978, except for the
 2 felony provision of Section 17-2-8 NMSA 1978, for which a
 3 punishment is not set forth under this section, is a
 4 misdemeanor and shall be fined [~~not less than fifty dollars~~
 5 ~~(\$50.00) or more than five hundred dollars (\$500)~~] or
 6 imprisoned [~~not more than six months or both~~] pursuant to
 7 Section 31-19-1 NMSA 1978.

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

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