AN ACT

RELATING TO WILDLIFE; ENACTING THE NEW MEXICO WILDLIFE
PROTECTION AND PUBLIC SAFETY ACT; PROVIDING FOR RESTRICTIONS ON
THE USE OF TRAPS AND POISONS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "New Mexico Wildlife Protection and Public Safety Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
New Mexico Wildlife Protection and Public Safety Act:

A. "body-gripping trap" means a trap that grips an animal's body or body part, including a steel-jawed leg-hold trap, a padded-jaw leg-hold trap, a conibear-type trap, an egg trap, a duffer trap, a glue trap, a foot-hold trap and all other traps and snares designed to grasp, squeeze or attach to.
an animal's body or body part or to kill an animal;

B. "confinement trap" means a trap that does not
grip an animal's body or body part, including a cage or box
trap, a corral trap, a colony trap, a net and a suitcase-type
live beaver trap;

C. "conibear-type trap" means a spring-loaded,
rotating jaw trap intended to deal a crushing and fatal blow to
an animal when the animal passes through the trap;

D. "department" means the department of game and
fish;

E. "domestic animal" means any animal that is bred
for and is typically subject to human control;

F. "ecosystem management" means actions that are
necessary to maintain or increase the long-term sustainability
and integrity of whole ecosystems;

G. "feral animal" means a domestic animal that is
not under human control and is now living freely;

H. "government entity" means a local, state or
federal government agency; a political subdivision of the
state; or an employee, agent or representative of the agency or
political subdivision;

I. "person" means an individual, a partnership, a
corporation, an organization, a trade or professional
association, a firm, a limited liability company, a joint
venture, an association, a trust, an estate or any other
nongovernmental legal entity and an officer, member, shareholder, director, employee, agent or representative of the nongovernmental legal entity;

J. "poison" means a substance applied in a manner intended to kill;

K. "public land" means property that is not privately owned property or lands belonging to an Indian nation, tribe or pueblo;

L. "scientific research" means an investigation using commonly accepted scientific techniques or the scientific method of comparing effects with outcomes experienced by a control group and that is conducted by employees or contractors of the department; the United States fish and wildlife service; or other government agencies, nongovernmental organizations, educational institutions or individuals who are affiliated with educational institutions conducting investigations and who have applied for and received a permit from the department; provided that any such investigation leads to generalizable knowledge and is conducted in accordance with a university-based institutional animal care and use committee, or a similar process developed in accordance with policies of the United States public health service commissioned corps, and is not being conducted for commercial gain from the sale of animal parts;

M. "snare" means a device, with or without stops,
often with a noose, that is used to capture, strangle or otherwise entangle wildlife;

N. "trap" means a device designed to confine, immobilize or kill an animal for the purpose of moving the animal, but does not include a catch pole or a leash, when the catch pole or leash is actively used by a person to temporarily restrain or relocate an animal; and

O. "wildlife" means a member of a vertebrate species that is native to or found in New Mexico that is not under the direct control of a human or in captivity; "wildlife" does not include a feral or escaped domestic animal.

SECTION 3. [NEW MATERIAL] PROHIBITIONS--EXCEPTIONS.--

A. Notwithstanding any other provision of law, it is a violation of the New Mexico Wildlife Protection and Public Safety Act for a person or government entity to:

1. set or use, or attempt to set or use, a trap to kill or capture wildlife on public land;

2. set or use, or attempt to set or use, a body-gripping trap to kill or capture any feral or domestic animal on public land; or

3. apply or use, or attempt to apply or use, a poison to kill or injure wildlife or a domestic or feral animal on public land.

B. The provisions of Subsection A of this section shall not prohibit:
(1) the taking of wildlife with firearms, fishing equipment, archery equipment, falconry equipment or other implements in hand as authorized by law;

(2) the taking of wildlife or feral or domestic animals by a government entity when use of a prohibited device or method is the only feasible way to protect human health and safety;

(3) the taking of beaver, muskrats or nutria by use of a conibear-type trap partially or wholly submerged in water by a government entity when use of the trap is the only feasible way to protect public waterways, levees or dams;

(4) the taking of wildlife by traps to conduct scientific research;

(5) the use of traps to protect threatened or endangered species, if used by the department or its agents or by the United States fish and wildlife service or its agents;

(6) the use of confinement traps for the lawful taking of wildlife or feral animals when use of the trap is the only feasible way to abate damages caused to property, crops or livestock. A trap used for this purpose shall be checked every calendar day by the person who set the trap, or the person's designee, and any captured wildlife shall be removed from the trap. Captured wildlife found alive shall be released immediately, killed immediately in accordance with law or relocated with permission granted by the department for

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relocation and release;

(7) the taking of a prairie dog or gopher using a poison by a government entity when use of the poison is the only feasible way to abate damages caused to property, crops or livestock;

(8) the taking of a mouse, rat or gopher using a trap when use of the trap is the only feasible way to abate damages caused to property, crops or livestock;

(9) an employee or agent of a state or federal agency from acting in the course of the employee's or agent's duties regarding ecosystem management; or

(10) the use of a device or method described in Subsection A of this section for the otherwise lawful taking of fish or other nonmammalian aquatic wildlife by the department or the United States fish and wildlife service.

SECTION 4. [NEW MATERIAL] PENALTIES.--

A. A person who violates the New Mexico Wildlife Protection and Public Safety Act is, for a first offense, guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a second or subsequent conviction for a violation of that act, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

B. A person who is found to be in violation of the New Mexico Wildlife Protection and Public Safety Act shall be
strictly liable in a civil action for damages.

C. In addition to other penalties, upon conviction, the court may consider appropriate restitution to a state agency that incurs costs in enforcing the New Mexico Wildlife Protection and Public Safety Act.

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.