

1 HOUSE BILL 366

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO WILDLIFE; ENACTING THE WILDLIFE PROTECTION AND
12 PUBLIC SAFETY ACT; PROVIDING FOR RESTRICTIONS ON THE USE OF
13 TRAPS, SNARES AND POISONS; PROVIDING PENALTIES; IMPOSING CIVIL
14 LIABILITY.
15

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

17 SECTION 1. A new Section 17-9-1 NMSA 1978 is enacted to
18 read:

19 "17-9-1. [NEW MATERIAL] SHORT TITLE.--Chapter 17, Article
20 9 NMSA 1978 may be cited as the "Wildlife Protection and Public
21 Safety Act"."

22 SECTION 2. A new Section 17-9-2 NMSA 1978 is enacted to
23 read:

24 "17-9-2. [NEW MATERIAL] DEFINITIONS.--As used in the
25 Wildlife Protection and Public Safety Act:

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1 A. "animal" includes domestic animals, feral
2 animals and wildlife;

3 B. "bona fide scientific research" means an
4 investigation using commonly accepted scientific techniques or
5 the scientific method of comparing effects with outcomes
6 experienced by a control group and that is not being conducted
7 for commercial gain from the sale of animal parts and that is
8 conducted by employees or contractors of the department, the
9 United States fish and wildlife service or other government
10 agencies, nongovernmental organizations, educational
11 institutions or individuals who are affiliated with educational
12 institutions conducting investigations and who have applied for
13 and received a scientific collection permit from the
14 department;

15 C. "cage trap" means a trap that confines a live
16 animal but does not grip an animal's body or body part and is
17 not intended to kill the animal, including a live trap, a cage
18 or box trap, a corral trap, a colony trap, a net and a
19 suitcase-type live beaver trap;

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

22 E. "depredation trapping" means the act of setting
23 traps, snares or poisons on public land to reduce or prevent
24 damage caused by an animal to private property, including
25 growing crops, harvested and stored crops, livestock or other

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1 private property;

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

4 G. "ecosystem management" means actions that are
5 necessary to maintain or increase the long-term sustainability
6 and integrity of an entire system of living wildlife and their
7 environment, including the restoration and conservation of
8 wildlife populations and habitat, wildlife relocation, medical
9 treatment of wildlife and the protection of threatened or
10 endangered species;

11 H. "feral animal" means a domestic animal existing
12 in an untamed state outside captivity or domestication and not
13 under human control;

14 I. "government entity" means a local, state or
15 federal government body or agency, a political subdivision of
16 the state or an employee, agent or representative of the body,
17 agency or political subdivision when acting within the scope of
18 its governmental duties;

19 J. "leghold trap" means a spring-actuated device,
20 either padded or unpadded, designed to capture an animal by the
21 foot, leg or other limb, including a steel-jawed leghold trap,
22 a padded-jaw leghold trap, a foot-hold trap, an egg trap, a
23 duffer trap and all other similar traps;

24 K. "lethal body-gripping trap" means a rotating jaw
25 trap designed to capture an animal by the body that is intended

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1 to fatally crush or otherwise kill the animal and includes
2 conibear traps and all other similar traps;

3 L. "poison" means a substance or mixture of
4 substances applied in a manner intended to kill an animal;

5 M. "public land" means open space land owned by a
6 government entity, but does not include physical structures or
7 land belonging to or held in trust for an Indian nation, tribe
8 or pueblo;

9 N. "snare" means a wire or cable with a single
10 closing device, often with a noose, with or without stops, that
11 is used to capture, strangle or otherwise entangle an animal,
12 but does not include use of a catch pole, leash or tether
13 lawfully used by a person to temporarily restrain or relocate
14 an animal;

15 O. "trap" includes a leghold trap, lethal body-
16 gripping trap or cage trap; and

17 P. "wildlife" means a member of a vertebrate
18 species that is native to or found in New Mexico that is not
19 under the direct control of a human or in captivity, but does
20 not include a feral or escaped domestic animal."

21 SECTION 3. A new Section 17-9-3 NMSA 1978 is enacted to
22 read:

23 "17-9-3. [NEW MATERIAL] PROHIBITIONS ON PUBLIC LAND.--It
24 is a violation of the Wildlife Protection and Public Safety Act
25 for a person or government entity to use a trap, snare or

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1 poison for purposes of capturing, injuring or killing an animal
2 on public land except as provided in Section 4 of the Wildlife
3 Protection and Public Safety Act."

4 SECTION 4. A new Section 17-9-4 NMSA 1978 is enacted to
5 read:

6 "17-9-4. [NEW MATERIAL] EXCEPTIONS.--

7 A. The provisions of the Wildlife Protection and
8 Public Safety Act do not apply to:

9 (1) any land or property that is not defined
10 as public land pursuant to the Wildlife Protection and Public
11 Safety Act;

12 (2) the taking of wildlife with firearms,
13 fishing equipment, archery equipment, falconry equipment or
14 other implements in hand as authorized by law;

15 (3) the control of mice, rats, gophers,
16 prairie dogs, moles, voles or rock squirrels as authorized by
17 law;

18 (4) a government entity acting in the course
19 of its official duties to prevent or mitigate actual threats to
20 human health and safety;

21 (5) the department, the United States fish and
22 wildlife service or a conservancy district of the state or its
23 employee, agent or representative acting in the course of its
24 official duties related to ecosystem management;

25 (6) bona fide scientific research; or

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1 (7) the use of cage traps by an owner of
2 property, crops or livestock that are lawfully situated on
3 public land for the lawful capture of offending wildlife, feral
4 animals or domestic animals to abate actual damages caused to
5 property, crops or livestock; provided that:

6 (a) once the animal has been captured
7 and removed, use of the cage trap shall cease; and

8 (b) the captured animal is disposed of
9 in accordance with rules established by the department.

10 B. Nothing in this section shall be construed to
11 allow recreational or commercial trapping on public land.

12 C. Nothing in this section shall be construed to
13 allow depredation trapping without evidence of actual damage to
14 property, crops or livestock."

15 SECTION 5. A new Section 17-9-5 NMSA 1978 is enacted to
16 read:

17 "17-9-5. [NEW MATERIAL] PENALTIES.--

18 A. A person who violates the Wildlife Protection
19 and Public Safety Act is guilty of a misdemeanor and,
20 notwithstanding the provisions of Section 31-19-1 NMSA 1978,
21 shall be sentenced to a term of imprisonment not to exceed six
22 months and to payment of a fine in the amount of:

23 (1) five hundred dollars (\$500) for each
24 prohibited device used, upon a first conviction;

25 (2) one thousand dollars (\$1,000) for each

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1 prohibited device used, upon a second conviction; and

2 (3) two thousand dollars (\$2,000) for each
3 prohibited device used, upon a third or subsequent conviction.

4 B. In addition to other penalties, upon conviction,
5 the court may consider appropriate restitution to a state
6 agency that incurs costs in enforcing the Wildlife Protection
7 and Public Safety Act."

8 SECTION 6. A new Section 17-9-6 NMSA 1978 is enacted to
9 read:

10 "17-9-6. [NEW MATERIAL] CIVIL LIABILITY.--A person who is
11 convicted of a violation of the Wildlife Protection and Public
12 Safety Act shall be strictly liable in a civil action for
13 damages related to the conduct for which the person was
14 convicted. If a violation results in the death of a domestic
15 animal, the court may award up to three times actual damages to
16 the party complaining of the violation."

17 SECTION 7. Section 17-5-3 NMSA 1978 (being Laws 1939,
18 Chapter 178, Section 3, as amended) is amended to read:

19 "17-5-3. SEASONS--SPECIAL PERMITS TO TAKE ANIMALS DOING
20 DAMAGE.--Fur-bearing animals as defined in Section 17-5-2 NMSA
21 1978 shall be taken only during the seasons declared by
22 regulation of the state game commission promulgated as provided
23 in Section 17-5-4 NMSA 1978. The director of the department of
24 game and fish may, however, issue permits at any time for the
25 taking of fur-bearing animals doing damage to game, private

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1 property, poultry or livestock pursuant to the provisions of
2 the Wildlife Protection and Public Safety Act."

3 SECTION 8. Section 17-5-5 NMSA 1978 (being Laws 1939,
4 Chapter 178, Section 5, as amended) is amended to read:

5 "17-5-5. TRAPPER'S LICENSES.--

6 A. No resident who has reached [~~his twelfth~~
7 ~~birthday~~] the age of twelve shall capture, trap or possess any
8 fur-bearing animal or attempt to do so without first procuring
9 a resident trapper's license; or, in the case of a resident who
10 has reached [~~his twelfth birthday~~] the age of twelve but not
11 [~~his eighteenth birthday~~] the age of eighteen, a resident
12 junior trapper's license.

13 B. No nonresident shall capture, trap or possess
14 any fur-bearing animal or skunk or coyote or attempt to do so
15 without first procuring a nonresident trapper's license.

16 C. No nonresident who resides in a state that does
17 not permit New Mexico residents to procure nonresident
18 trapper's licenses may purchase a New Mexico nonresident
19 trapper's license.

20 D. Trappers shall release all fur-bearing animals
21 trapped during closed seasons, and resident trappers who
22 release all fur-bearing animals during open seasons need not
23 procure a trapper's license.

24 E. Trappers on official business, paid from state
25 and federal funds and under supervision of the department of

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1 game and fish, the New Mexico department of agriculture or the
2 United States fish and wildlife service need not purchase a
3 trapper's license.

4 F. Trapping of animals, both fur-bearing and
5 nongame, by a resident in order to protect [~~his~~] livestock or
6 domesticated animals or fowl shall not be subject to rules and
7 regulations on trapping made pursuant to Section 17-5-4 NMSA
8 1978 or to licensing requirements provided in this section.

9 G. The state game commission may by regulation
10 require holders of trapper's licenses to use bobcat pelt tags
11 and may specify the conditions for use of the tags.

12 H. Trapping under this section shall be undertaken
13 pursuant to the provisions of the Wildlife Protection and
14 Public Safety Act."

15 SECTION 9. EFFECTIVE DATE.--The effective date of the
16 provisions of this act is July 1, 2019.