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**HOUSE BILL 267**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

Daniel R. Foley

**AN ACT**

**RELATING TO WILDLIFE; AMENDING A SECTION OF THE NMSA 1978 TO  
DECLARE NEW MEXICO' S EXCLUSIVE JURISDICTION OVER WILDLIFE;  
PROHIBITING ACTIVITIES IN CONFLICT WITH EXCLUSIVE JURISDICTION;  
PROVIDING THE STATE GAME COMMISSION WITH GAME DUTIES PERTAINING  
TO WILDLIFE INTRODUCED INTO THE STATE.**

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

**Section 1. Section 17-1-14 NMSA 1978 (being Laws 1921,  
Chapter 35, Section 7, as amended) is amended to read:**

**"17-1-14. GENERAL POWERS AND DUTIES OF STATE GAME  
COMMISSION-- GAME PROTECTION FUND. --**

**A. The state game commission shall have general  
control over the collection and disbursement of all money  
collected or received under the state laws for the protection  
and propagation of game and fish, which money shall be paid**

underscored material = new  
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1 over to the state treasurer to the credit of the game  
2 protection fund, and the fund, including all earned income  
3 therefrom, shall not be transferred to another fund. Chapter  
4 17 NMSA 1978 shall be guaranty to the person who pays for  
5 hunting and fishing licenses and permits that the money in that  
6 fund shall not be used for any purpose other than as provided  
7 in Chapter 17 NMSA 1978. The state game commission shall have  
8 authority:

9 (1) to establish and, through the director of  
10 the department of game and fish, to operate fish hatcheries for  
11 the purpose of stocking public waters of the state and to  
12 furnish fish fry and fingerlings to stock private waters,  
13 receipts from such sources to go into the game protection fund;

14 (2) to declare closed seasons in any specified  
15 locality and on any species of game or fish threatened with  
16 undue depletion from any cause;

17 (3) to establish game refuges for the purpose  
18 of providing safe sanctuaries in which game may breed and  
19 replenish adjacent hunting ranges, it being the purpose of this  
20 provision to establish small refuges rather than large  
21 preserves or to close large areas to hunting;

22 (4) to purchase lands for game refuges where  
23 suitable public lands do not exist, to purchase lands for fish  
24 hatcheries and to purchase lands to be maintained perpetually  
25 as public hunting grounds, particularly lands suitable for

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1 waterfowl hunting, all such lands to be paid for from the game  
2 protection fund;

3 (5) to receive by gift or bequest, in the name  
4 and on behalf of the state, lands suitable for game refuges,  
5 hunting grounds, fish hatcheries or for any other purpose  
6 necessary to carry out the provisions of Chapter 17 NMSA 1978;

7 (6) to apply for and accept any state, federal  
8 or private funds, grants or donations from any source for game  
9 and fish programs and projects;

10 (7) to designate certain areas as rest grounds  
11 for migratory birds, in which hunting shall be forbidden at all  
12 times or at such times as the state game commission shall  
13 provide, it being the purpose of this provision not to  
14 interfere unduly with the hunting of waterfowl but to provide  
15 havens in which they can rest and feed without molestation;

16 (8) to close any public stream or lake or  
17 portion thereof to fishing when such action is necessary to  
18 protect a recently stocked water, to protect spawning waters or  
19 to prevent undue depletion of the fish;

20 (9) to propagate, capture, purchase, transport  
21 or sell any species of game or fish needed for restocking any  
22 lands or streams of the state;

23 (10) after reasonable notice and hearing, to  
24 suspend or revoke any license or permit issued pursuant to the  
25 provisions of Chapter 17 NMSA 1978 and withhold license

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1 privileges for a definite period not to exceed three years  
2 from any person procuring a license through misrepresentation,  
3 violating any provisions of Chapter 17 NMSA 1978 or hunting  
4 without a proper license;

5 (11) to adopt rules establishing procedures  
6 that provide reasonable notice and a hearing before the state  
7 game commission for the suspension, revocation or withholding  
8 of license privileges of a person charged with violating the  
9 provisions of Chapter 17 NMSA 1978, subject to such judicial  
10 review as may be provided by law;

11 (12) to conduct studies of programs for the  
12 management of endangered and nongame species of wildlife;

13 (13) to establish licenses, permits and  
14 certificates not otherwise provided for in Section 17-3-13 NMSA  
15 1978 and to charge and collect just and reasonable fees for  
16 them; provided the fees shall not exceed the costs of  
17 administration associated with the licenses, permits or  
18 certificates;

19 (14) to permit, regulate or prohibit the  
20 commercial taking or capturing of native, free-ranging  
21 amphibians or reptiles not specifically protected by law,  
22 except for rattlesnake roundups, collection of fish bait and  
23 lizard races; and

24 (15) to adopt rules to control, eradicate or  
25 prevent the spread of a contagious disease, pest or parasite,

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1 including chronic wasting disease, to or among game animals.

2 The rules shall include provisions for:

3 (a) notification to the department of  
4 game and fish of the diagnosis or suspected presence of a  
5 contagious disease;

6 (b) examination by the state  
7 veterinarian or his designee of suspected infected game  
8 animals;

9 (c) quarantine, treatment or destruction  
10 of an infected game animal;

11 (d) disinfection and isolation of a  
12 licensed private park where an infected game animal has been;  
13 and

14 (e) indemnification and destruction of a  
15 protected game animal.

16 B. For the purposes of mitigating detrimental  
17 impacts to New Mexico from the introduction of a wildlife  
18 species, including endangered species, that have been or may be  
19 introduced, planted or propagated in the state by a person,  
20 including a federal agency, the commission shall:

21 (1) adopt rules to prohibit the introduction,  
22 reintroduction, propagation or management of a wildlife species  
23 into New Mexico by a person, including a federal agency, other  
24 than the department of game and fish;

25 (2) seek reimbursement or compensation for any

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1 damages to New Mexico wildlife or wildlife habitat caused by a  
2 species, including an endangered species, introduced into New  
3 Mexico pursuant to federal mandate or programs;

4 (3) except for damages eligible for  
5 compensation from the big game depredation damage fund, assist  
6 a landowner, lessee or outfitter, whose property or livelihood  
7 is being damaged by an endangered species introduced into New  
8 Mexico by a federal agency, to obtain reimbursement or  
9 compensation from the federal government; and

10 (4) remove the species introduced into New  
11 Mexico by the federal government.

12 C. The state game commission shall notify all:

13 (1) federal agencies, whose duties directly  
14 affect wildlife, public lands or the environment, that New  
15 Mexico has sole jurisdiction over all wildlife in the state and  
16 will exercise exclusive management;

17 (2) federal agencies that New Mexico prohibits  
18 officers or employees of the federal government from managing  
19 wildlife or from interfering with the department of game and  
20 fish; and

21 (3) county sheriffs that all wildlife  
22 violations are to be investigated by the department of game and  
23 fish and New Mexico law enforcement personnel and not federal  
24 agencies.

25 ~~[B.]~~ D. The director of the department of game and

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1 fish shall exercise all the powers and duties conferred upon  
2 the state game and fish warden by all previous statutes now in  
3 force not in conflict with Chapter 17 NMSA 1978.

4 [~~C-~~] E. The state game commission shall have  
5 authority to prohibit all hunting in periods of extreme forest  
6 fire danger, at such times and places as may be necessary to  
7 reduce the danger of destructive forest fires.

8 [~~D-~~] F. The hunting, pursuing, capturing, killing  
9 or wounding of any game animals, birds or fish in or upon any  
10 game refuge, rest ground or closed water or closed area or  
11 during any closed season established or proclaimed by the state  
12 game commission in accordance with the authority conferred in  
13 Chapter 17 NMSA 1978 constitutes a misdemeanor and shall be  
14 punishable as prescribed in Chapter 17 NMSA 1978. "

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