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HOUSE BILL 47

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Brian K. Moore

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF CHAPTER 17 NMSA
1978 TO REMOVE COUGARS FROM THE LIST OF GAME ANIMALS REGULATED
BY THE DEPARTMENT OF GAME AND FISH.

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

Section 1. Section 17-2-3 NMSA 1978 (being Laws 1967,
Chapter 8, Section 1, as amended) is amended to read:

"17-2-3. PROTECTED WILDLIFE SPECIES AND GAME FISH
DEFINED. --

A. The following mammals are game mammals:

(1) all of the family Tayassuidae (javelina);

(2) within the family Bovidae:

(a) all of the genus Bison (American
bison) except where raised in captivity for domestic or
commercial meat production;

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1 (b) all of the genus *Capra* (ibex) except
2 for the domestic species of goats;

3 (c) all of the genus *Ovis* (bighorn
4 sheep) except for the domestic species of sheep;

5 (d) all of the genus *Ammotragus*
6 (aoudad);

7 (e) all of the genus *Tragelaphus* (kudu);
8 and

9 (f) all of the genus *Oryx* (oryx);

10 (3) all of the family Antilocapridae (American
11 pronghorn);

12 (4) all of the family Cervidae (elk and deer);

13 (5) all of the family Ochotonidae (pikas);

14 (6) all of the genus *Sciurus* (squirrels);

15 (7) all of the genus *Tamiasciurus* (red
16 squirrels);

17 (8) all of the genus *Marmota* (marmots) of the
18 family Sciuridae; and

19 (9) all of the family Ursidae (bear) [and

20 ~~(10) all of the species concolor (cougar) of~~
21 ~~the genus *Felis* and family Felidae].~~

22 B. The following birds are game birds:

23 (1) all of the family Anatidae (waterfowl);

24 (2) all of the family Tetraonidae (grouse and
25 ptarmigans);

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- 1 (3) all of the family Phasianidae (quail,
2 partridges and pheasants);
- 3 (4) all of the family Meleagridae (wild
4 turkeys) except for the domestic strains of turkeys;
- 5 (5) all of the family Perdiciidae (francolins);
- 6 (6) all of the family Gruidae (cranes);
- 7 (7) all of the family Rallidae (rails, coots
8 and gallinules);
- 9 (8) all of the family Charadriidae (plovers,
10 turnstones and surfbirds);
- 11 (9) all of the family Scolopaciidae
12 (shorebirds, snipe, sandpipers and curlews);
- 13 (10) all of the family Recurvirostridae
14 (avocets and stilts);
- 15 (11) all of the family Phalaropodiidae
16 (phalaropes); and
- 17 (12) all of the family Columbidae (wild
18 pigeons and doves) except for the domestic strains of pigeons.

19 C. The following fish are game fish:

- 20 (1) all of the family Salmonidae (trout);
- 21 (2) all of the family Esocidae (pike);
- 22 (3) all of the family Ictaluridae (catfish);
- 23 (4) all introduced species of the family
24 Serranidae (sea bass and white bass);
- 25 (5) all of the family Centrarchidae (sunfish,

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1 crappie and bass);

2 (6) all of the family Percidae (walleye pike
3 and perch);

4 (7) all introduced species of the family
5 Pomadasyidae (sargo); and

6 (8) all introduced species of the family
7 Sciaenidae (corvina, bairdiella and redfish). "

8 Section 2. Section 17-2-10 NMSA 1978 (being Laws 1931,
9 Chapter 117, Section 7, as amended) is amended to read:

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

12 A. [~~Any~~] A person violating any of the provisions
13 of Chapter 17 NMSA 1978 or any [~~regulations~~] rules adopted by
14 the state game commission that relate to the time, extent,
15 means or manner that game animals, birds or fish may be hunted,
16 taken, captured, killed, possessed, sold, purchased or shipped
17 is guilty of a misdemeanor and, upon conviction, may be
18 sentenced to imprisonment in the county jail for a term not to
19 exceed six months. In addition, the person shall be sentenced
20 to the payment of a fine in accordance with the following
21 schedule:

22 (1) for illegally taking, attempting to take,
23 killing, capturing or possessing of each deer, antelope,
24 javelina or bear [~~or cougar~~] during a closed season, a fine of
25 four hundred dollars (\$400);

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1 (2) for illegally taking, attempting to take,
2 killing, capturing or possessing of each elk, bighorn sheep,
3 oryx, ibex or Barbary sheep, a fine of one thousand dollars
4 (\$1,000);

5 (3) for hunting big game without a proper and
6 valid license, lawfully procured, a fine of one hundred dollars
7 (\$100);

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

10 (5) for attempting to exceed the bag limit of
11 any big game species by the hunting of any big game animal
12 after having tagged a similar big game species, a fine of two
13 hundred dollars (\$200);

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

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

20 (8) for a violation of Section 17-2-31 NMSA
21 1978, a fine of three hundred dollars (\$300);

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

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

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

7 B. A person convicted a second time for violating
8 any of the provisions of Chapter 17 NMSA 1978 or any
9 [~~regulations~~] rules adopted by the state game commission that
10 relate to the time, extent, means or manner that game animals,
11 birds or fish may be hunted, taken, captured, killed,
12 possessed, sold, purchased or shipped is guilty of a
13 misdemeanor and upon conviction may be sentenced to
14 imprisonment in the county jail for a term of not more than
15 three hundred sixty-four days. In addition, the person shall
16 be sentenced to the payment of a fine in accordance with the
17 following schedule:

18 (1) for illegally taking, attempting to take,
19 killing, capturing or possessing of each deer, antelope,
20 javelina or bear [~~or cougar~~] during a closed season, a fine of
21 six hundred dollars (\$600);

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

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

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

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

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

14 (7) for using a hunting or fishing license
15 issued to another person, a fine of two hundred fifty dollars
16 (\$250);

17 (8) for a violation of Section 17-2-31 NMSA
18 1978, a fine of five hundred dollars (\$500);

19 (9) for selling, offering for sale, offering
20 to purchase or purchasing any big game animal, unless otherwise
21 provided by Chapter 17 NMSA 1978, a fine of one thousand five
22 hundred dollars (\$1,500);

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

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

4 C. Notwithstanding the provisions of
5 Section 31-18-13 NMSA 1978, a person convicted a third or
6 subsequent time for violating any of the provisions of Chapter
7 17 NMSA 1978 or any [~~regulations~~] rules adopted by the state
8 game commission that relate to the time, extent, means or
9 manner that game animals, birds or fish may be hunted, taken,
10 captured, killed, possessed, sold, purchased or shipped is
11 guilty of a misdemeanor and upon conviction may be sentenced to
12 imprisonment in the county jail for a term of not less than
13 ninety days, which shall not be suspended or deferred, and not
14 more than three hundred sixty-four days. In addition, the
15 person shall be sentenced to the payment of a fine in
16 accordance with the following schedule:

17 (1) for illegally taking, attempting to take,
18 killing, capturing or possessing of each deer, antelope,
19 javelina or bear [~~or cougar~~] during a closed season, a fine of
20 one thousand two hundred dollars (\$1,200);

21 (2) for illegally taking, attempting to take,
22 killing, capturing or possessing of each elk, bighorn sheep,
23 oryx, ibex or Barbary sheep, a fine of three thousand dollars
24 (\$3,000);

25 (3) for hunting big game without a proper and

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1 valid license, lawfully procured, a fine of one thousand
2 dollars (\$1,000);

3 (4) for exceeding the bag limit of any big
4 game species, a fine of one thousand two hundred dollars
5 (\$1,200);

6 (5) for attempting to exceed the bag limit of
7 any big game species by the hunting of any big game animal
8 after having tagged a similar big game species, a fine of one
9 thousand dollars (\$1,000);

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

14 (7) for using a hunting or fishing license
15 issued to another person, a fine of one thousand dollars
16 (\$1,000);

17 (8) for a violation of Section 17-2-31 NMSA
18 1978, a fine of one thousand dollars (\$1,000);

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

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

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

D. ~~[Any]~~ A person who is convicted of a violation of any ~~[regulations]~~ rules adopted by the state game commission that relate to the time, extent, means or manner that game animals, birds or fish may be hunted, taken, captured, killed, possessed, sold, purchased or shipped or of a violation of any of the provisions of Chapter 17 NMSA 1978, for which a punishment is not set forth under this section, shall be fined not less than fifty dollars (\$50.00) or more than five hundred dollars (\$500) or imprisoned not more than six months or both.

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

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

1 to ~~regulations~~ rules of the department. "

2 Section 3. Section 17-2-26 NMSA 1978 (being Laws 1912,
3 Chapter 85, Section 45, as amended) is amended to read:

4 "17-2-26. CIVIL LIABILITY. --

5 A. The director of the department of game and fish,
6 or any other officer charged with enforcement of the laws
7 relating to game and fish if so directed by the director, may
8 bring a civil action in the name of the state against any
9 person unlawfully wounding or killing, or unlawfully in
10 possession of, any game quadruped, bird or fish, or part
11 thereof, and recover judgment for the following minimum sums as
12 damage for the taking, killing or injuring:

13	for each elk-----	\$ 500.00
14	for each deer-----	250.00
15	for each antelope-----	250.00
16	for each mountain sheep-----	1,000.00
17	for each Barbary sheep-----	250.00
18	for each black bear-----	500.00
19	[for each cougar-----	500.00]
20	for each bison-----	600.00
21	for each ibex-----	1,000.00
22	for each oryx-----	1,000.00
23	for each javelina-----	100.00
24	for each beaver-----	65.00
25	for each bird-----	20.00

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1	for each fish-----	5. 00
2	for each endangered species-----	500. 00
3	for each raptor-----	200. 00
4	for each turkey-----	150. 00
5	for each jaguar-----	2, 000. 00.

6 B. No verdict or judgment recovered by the state in
7 an action shall be for less than the sum fixed in this section.
8 The action for damages may be joined with an action for
9 possession, and recovery may be had for the possession as well
10 as the damages.

11 C. The pendency or determination of an action for
12 damages or payment of a judgment, or the pendency or
13 determination of a criminal prosecution for the same taking,
14 wounding, killing or possession, is not a bar to the other, nor
15 does either affect the right of seizure under any other
16 provision of the laws relating to game and fish.

17 D. The provisions of this section shall not be
18 interpreted to prevent, constrain or penalize a Native American
19 for engaging in activities for religious purposes, as provided
20 in Section 17-2-14 or 17-2-41 NMSA 1978.

21 E. The provisions of this section shall not apply
22 to a landowner or lessee, or employee of either of them, who
23 kills an animal on private land, in which they have an
24 ownership or leasehold interest, that is threatening human life
25 or damaging or destroying property, including crops; provided,

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1 however, that the killing is reported to the department of game
2 and fish within twenty-four hours and before the removal of the
3 carcass of the animal killed; and provided further that all
4 actions authorized in this subsection are carried out according
5 to [~~regulations~~] rules of the department. "

6 Section 4. Section 17-3-2 NMSA 1978 (being Laws 1964 (1st
7 S.S.), Chapter 17, Section 2, as amended) is amended to read:

8 "17-3-2. CLASSES OF LICENSES. --

9 A. As used with reference to licenses in Chapter 17
10 NMSA 1978:

11 (1) "fishing" entitles the licensee to fish
12 for game fish during the open seasons for each species;

13 (2) "small game" entitles the licensee to hunt
14 game birds, other than wild turkey, and squirrel during the
15 open seasons for each;

16 (3) "deer" entitles the licensee to hunt deer
17 during the open season;

18 (4) "general hunting" entitles the licensee to
19 hunt deer, squirrel and game birds during the open seasons for
20 each;

21 (5) "general hunting and fishing" entitles the
22 licensee to hunt deer, squirrel and game birds and to fish for
23 game fish during the open seasons for each;

24 (6) "antelope" entitles the licensee to hunt
25 antelope during the open season;

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1 (7) "elk" entitles the licensee to hunt elk
2 during the open season;

3 (8) "bighorn sheep" entitles the licensee to
4 hunt bighorn sheep during the open season;

5 (9) "Barbary sheep" entitles the licensee to
6 hunt Barbary sheep during the open season;

7 (10) "javelina" entitles the licensee to hunt
8 javelina during the open season;

9 (11) "bear" entitles the licensee to hunt bear
10 during the open season;

11 (12) "nongame" entitles the licensee to hunt
12 or take any animal or bird not protected by law;

13 (13) "temporary fishing" entitles the licensee
14 to fish for game fish during a specific period of time
15 indicated on the license;

16 (14) "bison" entitles the licensee to hunt
17 bison during the open season;

18 (15) "oryx" entitles the licensee to hunt oryx
19 during the open season;

20 (16) "ibex" entitles the licensee to hunt ibex
21 during the open season;

22 (17) [~~"cougar" entitles the licensee to hunt~~
23 ~~cougar during the open season;~~

24 (18)] "turkey" entitles the licensee to hunt
25 turkey during the open season;

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1 [~~(19)~~] (18) "special season turkey" entitles
2 the licensee to hunt turkey during special seasons designated
3 by the state game commission;

4 [~~(20)~~] (19) "quality elk" entitles the
5 licensee to hunt elk during a special quality elk season, to be
6 established by the state game commission, when the timing of
7 the season and hunter density is specially regulated and the
8 elk population is managed with an intent to provide the
9 licensee an increased opportunity to take a mature elk;

10 [~~(21)~~] (20) "quality deer" entitles the
11 licensee to hunt deer during a special quality deer season, to
12 be established by the state game commission, when the timing of
13 the season and hunter density is specially regulated and the
14 deer population is managed with an intent to provide the
15 licensee an increased opportunity to take a mature deer;

16 [~~(22)~~] (21) "gazelle" entitles the licensee to
17 hunt gazelle during the open season;

18 [~~(23)~~] (22) "temporary small game" entitles
19 the licensee to hunt game birds, except wild turkey, and
20 squirrel during a specific period of time indicated on the
21 license; and

22 [~~(24)~~] (23) "second rod" entitles the licensee
23 to fish using two fishing rods to fish for game fish during the
24 open seasons for each species.

25 B. A hunting license does not entitle the licensee

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1 to hunt, kill or take game animals or birds within or upon a
2 park or enclosure licensed or posted as provided by law or
3 within or upon a privately owned enclosure without consent of
4 the owner or within or upon a game refuge or game management
5 area.

6 C. A fishing license does not entitle the licensee
7 to fish for or take fish within or upon a park or enclosure
8 licensed or posted as provided by law or within or upon a
9 privately owned enclosure without consent of the owner or in or
10 on closed waters.

11 D. A junior-senior fishing license may be purchased
12 by a resident who has reached his twelfth birthday but has not
13 reached his fifteenth birthday or by a resident who has reached
14 his sixty-fifth birthday. A junior-senior fishing license
15 entitles the licensee to fish for game fish during the open
16 season for each species.

17 E. A nonresident junior fishing license may be
18 purchased by a nonresident who has reached his twelfth birthday
19 but has not reached his fifteenth birthday. A nonresident
20 junior fishing license entitles the licensee to fish for game
21 fish during the open season for each species.

22 F. A senior general hunting license may be
23 purchased by a resident who has reached his sixty-fifth
24 birthday. A senior general hunting license entitles the
25 licensee to hunt for deer, squirrel and game birds during the

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1 open seasons for each species.

2 G. A handicapped fishing license may be purchased
3 by a resident who has a severe physical impairment that
4 substantially limits one or more major life activities and who
5 can furnish adequate proof of this disability to the state game
6 commission. A handicapped fishing license may be purchased by
7 a resident who has a developmental disability as defined in
8 Subsection H of Section 43-1-3 NMSA 1978 and who can furnish
9 adequate proof of this disability to the state game commission.
10 A handicapped fishing license entitles the licensee to fish for
11 game fish during the open season for each species.

12 H. A handicapped general hunting license may be
13 purchased by a resident who has a severe physical impairment
14 that substantially limits one or more major life activities and
15 who can furnish adequate proof of this disability to the state
16 game commission. A handicapped general hunting license
17 entitles the licensee to hunt for deer, squirrel and game birds
18 during the open season for each species.

19 I. A fishing license may be obtained at no cost by
20 a resident who has reached his seventieth birthday.

21 J. A second rod validation may be purchased by
22 either a resident or nonresident. A second rod validation
23 entitles the licensee to fish using two rods for game fish
24 during the open season for each species. "

25 Section 5. Section 17-3-13 NMSA 1978 (being Laws 1964

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1 (1st S.S.), Chapter 17, Section 5, as amended) is amended to
2 read:

3 "17-3-13. LICENSE FEES. --

4 A. The director of the department of game and fish
5 shall keep a record of all money received and licenses and
6 permits issued by ~~[him]~~ the director, numbering each class
7 separately. Upon satisfactory proof that a license or permit
8 has been lost before its expiration, ~~[he]~~ the director may
9 issue a duplicate and collect a just and reasonable fee for it
10 as determined by regulation of the state game commission.

11 B. The director of the department of game and fish
12 shall collect the following fees for each license of the class
13 indicated:

14	Resident, fishing	\$17.50
15	Resident, small game	12.00
16	Resident, deer	23.00
17	Resident, general hunting	25.00
18	Resident, general hunting and fishing	37.50
19	Resident, junior-senior handicapped,	
20	general hunting and fishing	20.00
21	Resident, antelope	30.00
22	Resident, elk cow	37.00
23	Resident, elk bull or either sex	60.00
24	Resident, bighorn sheep	90.00
25	Resident, Barbary sheep	80.00

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1	Resident, bear	30.00
2	Resident, turkey	15.00
3	[Resident, cougar	30.00]
4	Resident, bison	100.00
5	Resident, oryx	100.00
6	Resident, ibex	60.00
7	Resident, gazelle	25.00
8	Resident, javelina	40.00
9	Resident, fur dealer	10.00
10	Resident, furbearer	12.00
11	Resident, junior furbearer	5.00
12	Nonresident, fishing	39.00
13	Nonresident, junior fishing	18.50
14	Nonresident, small game	75.00
15	Nonresident, deer	180.00
16	Nonresident, quality deer	300.00
17	Nonresident, bear	150.00
18	[Nonresident, cougar	200.00]
19	Nonresident, turkey	75.00
20	Nonresident, antelope	186.00
21	Nonresident, elk cow	275.00
22	Nonresident, elk bull or either sex	465.00
23	Nonresident, quality elk	750.00
24	Nonresident, bighorn sheep	3,000.00
25	Nonresident, Barbary sheep	300.00

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1	Nonresident, bison	1,000.00
2	Nonresident, oryx	1,500.00
3	Nonresident, ibex	1,500.00
4	Nonresident, gazelle	3,000.00
5	Nonresident, javelina	140.00
6	Nonresident, fur dealer	100.00
7	Nonresident, furbearer	300.00
8	Nonresident, nongame	50.00
9	Resident, junior-senior handicapped,	
10	fishing	5.00
11	Temporary fishing, one day	8.00
12	Temporary fishing, five days	16.00
13	Resident, junior-senior handicapped,	
14	general hunting	15.00
15	Temporary small game, four days	35.00
16	Second rod validation	3.00."