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## FISCAL IMPACT REPORT

**SPONSOR** Sanchez, M. **ORIGINAL DATE** 1-27-06 **LAST UPDATED** 2-13-06 **HB** \_\_\_\_\_

**SHORT TITLE** Unlawful Trophy Animal Disposition Penalties **SB** 395/aSFI#1

**ANALYST** Woods

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
NFI	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY06	FY07	FY08		
N/A	20.0 - 40.0	20.0 - 40.0	Recurring	Game Protec- tion Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates HB536

### SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Game and Fish (DGF)

### SUMMARY

Synopsis of SFL #1 amendment

Senate Floor Amendment Number 1 to SB395 amends the legislation as follows:

1. On page 1, line 11, strike "AUTHORITY TO ESTABLISH" and insert in lieu thereof "FOR".
2. On page 1, line 25, remove the brackets and line-through, strike the period and strike

the remainder of the line.

3. On page 2, lines 1 through 6, strike the underscored language.
4. On page 2, line 7, strike the comma and the remainder of the line.
5. On page 2, line 8, strike the language through the comma.
6. On page 3, strike lines 3 through 6 in their entirety and between lines 6 and 7, insert the following subsections to read:

"B. Notwithstanding the provisions of Subsection A of this section, the state game commission shall establish damages recoverable by civil judgment on a game animal, bird or fish designated to be a trophy animal by commission rule.

C. Damages recovered pursuant to this section are intended to compensate the state for the loss of unique public resources and shall not be limited or reduced by the extent of fines assessed pursuant to any criminal statute. The department of game and fish shall not award or issue a license, permit or certificate to a debtor owing damages pursuant to this section until the judgment has been paid in full to the department."

7. Reletter the succeeding subsections accordingly.

Senate Floor Amendment Number 1 to SB395 adds no appropriation to the legislation.

#### Synopsis of Original Bill

Senate Bill 395, Relating to Game Animals; Providing Authority to Establish Civil Penalties for Unlawful Disposition of a Trophy Animal, amends Section 1. Section 17-2-26 NMSA 1978 (being Laws 1912, Chapter 85, Section 45, as amended) in order to provide for higher civil damages that may be recovered in the name of the State of New Mexico for unlawful wounding, killing or possession of trophy animals as designated by State Game Commission rule.

There is no appropriation attached to this legislation.

#### **FISCAL IMPLICATIONS**

The Department of Game and Fish (DGF) indicates that the proposed bill will have minimal departmental impact, further that modest revenues could be possibly be realized. Presently, DGF policy allows officers to recover the value of the loss of the game or fish illegal taken by allowing a violator to voluntarily pay the civil assessment value of the game or fish taken. If a person voluntarily pays, then he or she is allowed to make up to 3 payments and no civil suit is filed. If a person does not agree to voluntarily pay, then the Conservation Officer files a claim in magistrate court in the name of the state along with the filing fee of \$67.00 per case. Most individuals opt to pay voluntarily.

The Department spends less than \$700.00 annually on these civil filing fees. If civil penalties are increased for trophy game, then it is expected that individuals will be less likely to voluntarily

pay a civil penalty. The results of this bill may increase the filing fees that the Department will have to pay to the courts. However, it is unknown what the fiscal impact will be and it is expected that the cost could be absorbed without huge consequences to the operating budget.

Civil penalties received for the unlawful taking or possession of game or fish are disposed directly into the Game Protection Fund (516). Currently, it is estimated that the Department receives \$5.0 - \$7.5 in revenue from civil penalties. If civil penalties on trophy poaching are approved, then the revenue from trophy penalties should be much higher. It is unknown how much money will be generated from this increase, but annual estimates are \$20.0 – \$40.0. This could decrease over time as higher civil damages are expected to be a deterrent to poaching.

### **SIGNIFICANT ISSUES**

DGF indicates that this legislation allows the State Game Commission to establish rules defining trophy animals and to set civil penalties at a level that would create an additional deterrent to the unlawful killing or possession of trophy animals. Individuals violating game and fish law can be prosecuted criminally in court and a suit may also be brought in the name of the state for the loss of the game or fish taken.

The legislation also provides that licenses, certificates or permits will not be sold to persons owing civil damages until the civil penalty has been paid. It is expected that civil judgments could effectively be obtained from many individuals residing outside of New Mexico who violate our game laws because the State belongs to the Interstate Wildlife Violator Compact. This compact allows the other participating states (21) to temporarily suspend license privileges to a violator in his or her home state if they have not satisfied a judgment or met their obligation to take care of any court matters.

DGF adds that the department has received numerous comments from the public that support higher penalties for wildlife violators, especially for those taking trophy animals. Some have indicated that the criminal fine and civil penalty are too low.

### **ADMINISTRATIVE IMPLICATIONS**

DGF suggests that due to increased civil damage assessments, offenders may choose a civil trial instead of paying the amount voluntarily. This would require additional time in court by officers.

### **TECHNICAL ISSUES**

The money from current civil assessments is deposited into the Game Protection Fund. The revocation of licenses meets the intent of the violator compact.

### **OTHER SUBSTANTIVE ISSUES**

This bill would give the State Game Commission authority to determine what a trophy animal is and what the value of such is. Although free-ranging game and fish belong to the state, many individuals have a stake in this resource. Landowners, guides, and local economies depend on the hunting industry to generate millions of dollars. Likewise, trophy game or the chance to take a trophy animal can generate thousands of dollars to individuals. This bill allows the state game

commission to determine the value with well rounded participation by anyone interested to put forth their opinions on what constitutes a trophy and what that value is considered to be for each trophy species. This is consistent with the Commissions' decision making authority where this body passes rules on game and fish while considering zones of temperatures, distribution, abundance, economic value and breeding habits of game animals, birds and fish (17-1-26 NMSA).

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

DGF indicates that, presently, for example, the civil assessments for deer are \$250 and an elk is \$500. The value either through sale or as a personal prize to a poacher for a trophy deer or elk is believed to substantially exceed these civil amounts. The public has criticized the Department that a poacher is more willing to take a chance of "getting caught" because the consequences of taking a trophy animal are not that great, especially monetarily.

BW/yr:mt