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HOUSE BILL 61

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Paul C. Bandy

AN ACT

RELATING TO WILDLIFE; AMENDING SECTIONS OF CHAPTER 17, ARTICLE 1 NMSA 1978 TO PROHIBIT PARTICIPATION BY THE STATE GAME COMMISSION AND THE DEPARTMENT OF GAME AND FISH IN A PROGRAM OF INTRODUCTION OF THE MEXICAN GRAY WOLF; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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 by Laws 2005, Chapter 38, Section 1 and by Laws 2005, Chapter 177, Section 1) is amended to read:

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

A. The state game commission shall have general control over the collection and disbursement of all money

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1 collected or received under the state laws for the protection
2 and propagation of game and fish, which money shall be paid
3 over to the state treasurer to the credit of the game
4 protection fund, unless otherwise provided by law, and the
5 fund, including all earned income, shall not be transferred to
6 another fund. Prior to depositing money into the game
7 protection fund, the department of game and fish shall ensure
8 that an amount adequate to cover the cost of refunds allowed by
9 the provisions of Chapter 17 NMSA 1978 is held in a liability
10 suspense account. All refunds shall be made from the liability
11 suspense account. Money not needed to cover the cost of
12 refunds shall be deposited in the game protection fund at the
13 end of each month. Chapter 17 NMSA 1978 shall be guaranty to
14 the person who pays for hunting and fishing licenses and
15 permits that the money in that fund shall not be used for any
16 purpose other than as provided in Chapter 17 NMSA 1978.

17 B. The state game commission shall have authority
18 to:

19 (1) establish and, through the director of the
20 department of game and fish, to operate fish hatcheries for the
21 purpose of stocking public waters of the state and to furnish
22 fish fry and fingerlings to stock private waters, receipts from
23 such sources to go into the game protection fund;

24 (2) declare closed seasons in any specified
25 locality and on any species of game or fish threatened with

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1 undue depletion from any cause;

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

7 (4) purchase lands for game refuges where
8 suitable public lands do not exist, to purchase lands for fish
9 hatcheries and to purchase lands to be maintained perpetually
10 as public hunting grounds, particularly lands suitable for
11 waterfowl hunting, all such lands to be paid for from the game
12 protection fund;

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

17 (6) apply for and accept any state, federal or
18 private funds, grants or donations from any source for game and
19 fish programs and projects;

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

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

5 (9) propagate, capture, purchase, transport or
6 sell any species of game or fish needed for restocking any
7 lands or streams of the state;

8 (10) after reasonable notice and hearing,
9 suspend or revoke any license or permit issued pursuant to the
10 provisions of Chapter 17 NMSA 1978 and withhold license
11 privileges for a definite period not to exceed three years from
12 any person procuring a license through misrepresentation,
13 violating any provisions of Chapter 17 NMSA 1978 or hunting
14 without a proper license;

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

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

23 (13) establish licenses, permits and
24 certificates not otherwise provided for in Section 17-3-13 NMSA
25 1978 and charge and collect just and reasonable fees for them;

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1 provided the fees shall not exceed the costs of administration
2 associated with the licenses, permits or certificates;

3 (14) permit, regulate or prohibit the
4 commercial taking or capturing of native, free-ranging
5 amphibians or reptiles not specifically protected by law,
6 except for rattlesnake roundups, collection of fish bait and
7 lizard races;

8 (15) adopt rules to control, eradicate or
9 prevent the spread of a contagious disease, pest or parasite,
10 including chronic wasting disease, to or among game animals.
11 The rules shall include provisions for:

12 (a) notification to the department of
13 game and fish of the diagnosis or suspected presence of a
14 contagious disease;

15 (b) examination by the state
16 veterinarian or the state veterinarian's designee of suspected
17 infected game animals;

18 (c) quarantine, treatment or destruction
19 of an infected game animal;

20 (d) disinfection and isolation of a
21 licensed private park where an infected game animal has been;
22 and

23 (e) indemnification and destruction of a
24 protected game animal;

25 (16) as necessary, designate areas of the

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1 state in which bear-proof garbage containers are required on
2 public and private lands to reduce potential human-bear
3 interactions; and

4 (17) pursuant to appropriation by the
5 legislature, expend money from the game protection fund and the
6 habitat management fund for the improvement, maintenance,
7 development and operation of property for fish and wildlife
8 habitat management.

9 C. The director of the department of game and fish
10 shall exercise all the powers and duties conferred upon the
11 state game and fish warden by all previous statutes now in
12 force not in conflict with Chapter 17 NMSA 1978.

13 D. The state game commission shall have authority
14 to prohibit all hunting in periods of extreme forest fire
15 danger, at such times and places as may be necessary to reduce
16 the danger of destructive forest fires.

17 E. The hunting, pursuing, capturing, killing or
18 wounding of any game animals, birds or fish in or upon any game
19 refuge, rest ground or closed water or closed area or during
20 any closed season established or proclaimed by the state game
21 commission in accordance with the authority conferred in
22 Chapter 17 NMSA 1978 constitutes a misdemeanor and shall be
23 punishable as prescribed in Chapter 17 NMSA 1978.

24 F. The state game commission and the department of
25 game and fish shall not conduct or cooperate in a program of

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1 introduction of the Mexican gray wolf, Canis lupus baileyi,
2 into New Mexico that does not provide for immediate
3 compensation of equal monetary value for damage to property,
4 livelihood or public peace, health and safety."

5 Section 2. Section 17-1-28 NMSA 1978 (being Laws 1939,
6 Chapter 19, Section 1) is amended to read:

7 "17-1-28. ASSENT TO ACT OF CONGRESS.--The state of New
8 Mexico hereby assents to the provisions of the act of congress
9 of the United States of America entitled "An act to provide
10 that the United States shall aid the states in wildlife
11 restoration projects, and for other purposes", approved
12 September [7] 2, 1937 (Public Number 415, 75th Congress), and
13 the state game commission is hereby authorized and directed to
14 perform all [~~such~~] acts as may be necessary to the conduct and
15 establishment of cooperative wildlife restoration projects as
16 defined by [~~said~~] that act of congress and in compliance with
17 [~~said~~] that act and rules and regulations promulgated by the
18 secretary of agriculture thereunder; provided that nothing in
19 this section shall provide authorization to, and the state game
20 commission and the department of game and fish shall not,
21 conduct or cooperate in a program of introduction of the
22 Mexican gray wolf, Canis lupus baileyi, into New Mexico that
23 does not provide for immediate compensation of equal monetary
24 value for damage to property, livelihood or public peace,
25 health and safety."

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