

HOUSE BILL 366

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

INTRODUCED BY

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Roberto "Bobby" J. Gonzales

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

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

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

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

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

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Safety Act".

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

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

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

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

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

D. "department" means the department of game and

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fish;

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

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

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

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

I. "government entity" means a local, state or federal government body or agency, a political subdivision of the state or an employee, agent or representative of the body, agency or political subdivision when acting within the scope of its governmental duties HENRC→but does not include an Indian nation, tribe or pueblo←HENRC;

J. "leghold trap" means a spring-actuated device,

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either padded or unpadded, designed to capture an animal by the foot, leg or other limb, including a steel-jawed leghold trap, a padded-jaw leghold trap, a foot-hold trap, an egg trap, a duffer trap and all other similar traps;

K. "lethal body-gripping trap" means a rotating jaw trap designed to capture an animal by the body that is intended to fatally crush or otherwise kill the animal and includes conibear traps and all other similar traps;

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

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

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

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

P. "wildlife" means a member of a vertebrate species that is native to or found in New Mexico that is not under the direct control of a human or in captivity, but does

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not include a feral or escaped domestic animal."

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

"17-9-3. [NEW MATERIAL] PROHIBITIONS ON PUBLIC LAND.--It is a violation of the Wildlife Protection and Public Safety Act for a person or government entity to use a trap, snare or poison for purposes of capturing, injuring or killing an animal on public land except as provided in Section 4 of the Wildlife Protection and Public Safety Act."

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

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

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

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

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

(3) the control of mice, rats, gophers, prairie dogs, moles, voles or rock squirrels HENRC→as
~~authorized by law~~←HENRC;

(4) a government entity acting in the course of its official duties to prevent or mitigate actual threats to

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human health and safety;

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

(6) bona fide scientific research;

HENRC→~~or~~←HENRC

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

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

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

HENRC→.←HENRC HENRC→; or←HENRC

HENRC→(8) the use of cage traps:

(a) by an owner of a domestic animal to recover that animal;

(b) to engage in a trap-neuter-return program for feral animals; or

(c) by the department to trap beavers, muskrats and nutria; provided that the trap is not entirely submerged in water.←HENRC

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

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

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

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

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

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

(2) one thousand dollars (\$1,000) for each prohibited device used, upon a second conviction; and

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

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

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

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

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

"17-5-3. SEASONS--SPECIAL PERMITS TO TAKE ANIMALS DOING DAMAGE.--Fur-bearing animals as defined in Section 17-5-2 NMSA 1978 shall be taken only during the seasons declared by regulation of the state game commission promulgated as provided in Section 17-5-4 NMSA 1978. The director of the department of game and fish may, however, issue permits at any time for the taking of fur-bearing animals doing damage to game, private property, poultry or livestock pursuant to the provisions of the Wildlife Protection and Public Safety Act."

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

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

A. No resident who has reached [~~his twelfth birthday~~] the age of twelve shall capture, trap or possess any fur-bearing animal or attempt to do so without first procuring a resident trapper's license; or, in the case of a resident who

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has reached [~~his twelfth birthday~~] the age of twelve but not [~~his eighteenth birthday~~] the age of eighteen, a resident junior trapper's license.

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

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

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

E. Trappers on official business, paid from state and federal funds and under supervision of the department of game and fish, the New Mexico department of agriculture or the United States fish and wildlife service need not purchase a trapper's license.

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

G. The state game commission may by regulation

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require holders of trapper's licenses to use bobcat pelt tags and may specify the conditions for use of the tags.

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

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