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HOUSE BILL 410

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO WILDLIFE; PROVIDING PROTECTION FOR AMPHIBIANS AND REPTILES; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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 over to the state treasurer to the credit of the game protection fund, and the fund, including all earned income therefrom, shall not be transferred to another fund. Chapter

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1 17 NMSA 1978 shall be guaranty to the person who pays for  
2 hunting and fishing licenses and permits that the money in  
3 that fund shall not be used for any purpose other than as  
4 provided in Chapter 17 NMSA 1978. The state game commission  
5 shall have authority:

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

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

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

20 (4) to purchase lands for game refuges where  
21 suitable public lands do not exist, to purchase lands for fish  
22 hatcheries and to purchase lands to be maintained perpetually  
23 as public hunting grounds, particularly lands suitable for  
24 waterfowl hunting, all such lands to be paid for from the game  
25 protection fund;

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

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

9 (7) to designate certain areas as rest  
10 grounds for migratory birds, in which hunting shall be  
11 forbidden at all times or at such times as the state game  
12 commission shall provide, it being the purpose of this  
13 provision not to interfere unduly with the hunting of  
14 waterfowl but to provide havens in which they can rest and  
15 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  
19 or to prevent undue depletion of the fish;

20 (9) to propagate, capture, purchase,  
21 transport or sell any species of game or fish needed for  
22 restocking any 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 regulations establishing  
6 procedures that provide reasonable notice and a hearing before  
7 the state game commission for the suspension, revocation or  
8 withholding of license privileges of any person charged with  
9 violating the provisions of Chapter 17 NMSA 1978, subject to  
10 such judicial 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 [~~and~~]

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

20 (14) to regulate or prohibit the taking,  
21 killing or capturing of amphibians or reptiles not  
22 specifically protected by law for purposes of use in  
23 commercial activity or public events.

24 B. The director of the department of game and fish  
25 shall exercise all the powers and duties conferred upon the

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1 state game and fish warden by all previous statutes now in  
2 force not in conflict with Chapter 17 NMSA 1978.

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

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

15 Section 2. [NEW MATERIAL] AMPHIBIANS AND REPTILES-- SALE,  
16 BARTER, PURCHASE OR TRANSPORT PROHIBITED. --

17 A. No person shall sell, offer for sale, barter,  
18 purchase, offer to purchase, export or transport from the  
19 state a native amphibian or reptile, alive or dead, parts of  
20 those animals or products made from those animals, except as  
21 permitted by rule of the state game commission.

22 B. The state game commission shall adopt rules to  
23 administer the provisions of this section, based on the  
24 primary goal of maintaining healthy wild populations of native  
25 amphibians and reptiles and the humane and healthful treatment

1 of captive-bred populations.

2 C. The provisions of this section do not prohibit  
3 the possession of native amphibians or reptiles for the  
4 purpose of captive breeding in New Mexico or subsequent sale  
5 of the offspring, the collection of native amphibians or  
6 reptiles as personal pets within New Mexico or the sale or  
7 purchase of waterdogs for use as bait in New Mexico, as  
8 permitted by rule of the state game commission.

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1 FORTY-FOURTH LEGISLATURE  
2 FIRST SESSION, 1999  
3  
4  
5

6 February 12, 1999  
7

8 Mr. Speaker:  
9

10 Your ENERGY AND NATURAL RESOURCES COMMITTEE, to  
11 whom has been referred  
12

13 HOUSE BILL 410  
14

15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

- 17 1. On page 4, lines 20 and 21, strike "taking, killing  
18 or capturing" and insert in lieu thereof "commercial use".  
19
- 20 2. On page 4, line 22, after "law" strike the  
21 remainder of the line and strike line 23 through "events".  
22
- 23 3. On page 5, line 16, after "PROHIBITED" insert "--  
24 PENALTIES".  
25
4. On page 5, line 25, after "reptiles" strike the

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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HENRC/HB 410

Page 8

4 remainder of the line and on page 6 strike line 1 through  
5 "populations".

6  
7 5. On page 6, line 7, strike "waterdogs" and insert in  
8 lieu thereof "tiger salamanders, *Abystroma tigrinum*, commonly  
9 called "waterdogs", "

10  
11 6. On page 6, between lines 8 and 9, insert the  
12 following new subsection:

13 "D. A person who is convicted of violating this  
14 section or a rule of the state game commission adopted  
15 pursuant to this section shall be fined not less than fifty  
16 dollars (\$50.00) and not more than five hundred dollars (\$500)  
17 for each offense or imprisoned for not more than six months,  
18 or both. ",

19 and thence referred to the JUDICIARY COMMITTEE.  
20  
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FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

3 HENRC/HB 410

Page 9

4  
5 Respectfully submitted,

8 \_\_\_\_\_  
9 James Roger Madalena, Chairman

11 Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

12 (Chief Clerk)

(Chief Clerk)

14 Date \_\_\_\_\_

15  
16 The roll call vote was 7 For 0 Against

17 Yes: 7

18 Excused: Kissner, Picraux, Roberts

19 Absent: None

21 127413.1

22 J:\99BillsWP\H0410

25 . 126554.1

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[bracketed material] = delete

1 **FORTY- FOURTH LEGISLATURE**  
2 **FIRST SESSION, 1999**

3  
4 **March 6, 1999**

5  
6  
7 **Mr. Speaker:**

8  
9 **Your JUDICIARY COMMITTEE, to whom has been referred**

10 **HOUSE BILL 410, as amended**

11  
12 **has had it under consideration and reports same with**  
13 **recommendation that it DO NOT PASS, but that**

14  
15 **HOUSE JUDICIARY COMMITTEE SUBSTITUTE**  
16 **FOR HOUSE BILL 410**

17 **DO PASS.**

18  
19 **Respectfully submitted,**

20  
21  
22  
23 \_\_\_\_\_  
24 **R. David Pederson, Chairman**

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

HJC/CSHB 410

Page 11

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 9 For 1 Against

Yes: 9

No: Mallory

Excused: Luna, Sanchez

Absent: None

J:\99Bill\SWP\H0410

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 410

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

AN ACT

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over to the state treasurer to the credit of the game  
protection fund, and the fund, including all earned income  
therefrom, shall not be transferred to another fund. Chapter  
17 NMSA 1978 shall be guaranty to the person who pays for  
hunting and fishing licenses and permits that the money in  
that fund shall not be used for any purpose other than as

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1 (1) to establish and, through the director of  
2 the department of game and fish, to operate fish hatcheries  
3 for the purpose of stocking public waters of the state and to  
4 furnish fish fry and fingerlings to stock private waters,  
5 receipts from such sources to go into the game protection  
6 fund;

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

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

15 (4) to purchase lands for game refuges where  
16 suitable public lands do not exist, to purchase lands for fish  
17 hatcheries and to purchase lands to be maintained perpetually  
18 as public hunting grounds, particularly lands suitable for  
19 waterfowl hunting, all such lands to be paid for from the game  
20 protection fund;

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

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

(7) to designate certain areas as rest  
grounds for migratory birds, in which hunting shall be

1 forbidden at all times or at such times as the state game  
2 commission shall provide, it being the purpose of this  
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4 waterfowl but to provide havens in which they can rest and  
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12 restocking any lands or streams of the state;

13 (10) after reasonable notice and hearing, to  
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16 privileges for a definite period not to exceed three years  
17 from any person procuring a license through misrepresentation,  
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20 (11) to adopt regulations establishing  
21 procedures that provide reasonable notice and a hearing before  
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23 withholding of license privileges of any person charged with  
24 violating the provisions of Chapter 17 NMSA 1978, subject to  
25 such judicial review as may be provided by law;

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

[and]

1 (13) to establish licenses, permits and  
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3 NMSA 1978 and to charge and collect just and reasonable fees  
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6 certificates; and

7 (14) to regulate or prohibit the commercial  
8 use of amphibians or reptiles not specifically protected by  
9 law.

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

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15 to prohibit all hunting in periods of extreme forest fire  
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26 Section 2. [NEW MATERIAL] AMPHIBIANS AND REPTILES--  
27 PENALTIES. --

28 A. The state game commission shall adopt rules to

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4 B. The provisions of this section do not prohibit  
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6 purpose of captive breeding in New Mexico or subsequent sale  
7 of the offspring, the collection of native amphibians or  
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9 purchase of tiger salamanders, *Ambystoma tigrinum*, commonly  
10 called "waterdogs" for use as bait in New Mexico, as permitted  
11 by rule of the state game commission.

12 C. A person who is convicted of violating this  
13 section or rule of the state game commission adopted pursuant  
14 to this section shall be guilty of a petty misdemeanor.

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 410

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

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3 PENALTIES. - -

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