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HOUSE BILL 282

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO WILDLIFE; PROVIDING PROTECTION FOR AMPHIBIANS AND REPTILES; AMENDING, REPEALING 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

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

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

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

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

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

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1 protection fund;

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

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

10 (7) to designate certain areas as rest
11 grounds for migratory birds, in which hunting shall be
12 forbidden at all times or at such times as the state game
13 commission shall provide, it being the purpose of this
14 provision not to interfere unduly with the hunting of
15 waterfowl but to provide havens in which they can rest and
16 feed without molestation;

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

21 (9) to propagate, capture, purchase,
22 transport or sell any species of game or fish needed for
23 restocking any lands or streams of the state;

24 (10) after reasonable notice and hearing, to
25 suspend or revoke any license or permit issued pursuant to the

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1 provisions of Chapter 17 NMSA 1978 and withhold license
2 privileges for a definite period not to exceed three years
3 from any person procuring a license through misrepresentation,
4 violating any provisions of Chapter 17 NMSA 1978 or hunting
5 without a proper license;

6 (11) to adopt [~~regulations~~] rules
7 establishing procedures that provide reasonable notice and a
8 hearing before the state game commission for the suspension,
9 revocation or withholding of license privileges of any person
10 charged with violating the provisions of Chapter 17 NMSA 1978,
11 subject to such judicial review as may be provided by law;

12 (12) to conduct studies of programs for the
13 management of endangered and nongame species of wildlife;
14 [~~and~~]

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

21 (14) to permit, regulate or prohibit the
22 taking or capturing of native, free-ranging amphibians or
23 reptiles not specifically protected by law.

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. A new Section 17-2-4.1 NMSA 1978 is enacted
16 to read:

17 "17-2-4.1. [NEW MATERIAL] AMPHIBIANS AND REPTILES--
18 PROTECTED-- PERMITS-- UNLAWFUL TAKING-- MISDEMEANOR-- PENALTIES. --

19 A. All species of native, free-ranging amphibians
20 and reptiles are hereby classified as protected nongame
21 animals.

22 B. If the state game commission determines that it
23 will offer permits to take or capture native, free-ranging
24 amphibians or reptiles, the commission shall adopt a rule
25 listing protected native, free-ranging amphibians and reptiles

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1 that may be taken or captured after taking into consideration
2 any criteria that can be shown to have an effect on the
3 viability of the species population in the state.

4 C. The state game commission shall adopt rules
5 necessary to administer Paragraph (14) of Subsection A of
6 Section 17-1-14 NMSA 1978 and this section to assure that
7 viable populations of native, free-ranging amphibians and
8 reptiles are maintained in the state.

9 D. Unlawful taking of a native, free-ranging
10 amphibian or reptile consists of intentionally taking or
11 capturing a native, free-ranging amphibian or reptile without
12 a valid permit from the state game commission.

13 E. Whoever commits unlawful taking of a native,
14 free-ranging amphibian or reptile is guilty of a misdemeanor
15 and shall be fined not less than fifty dollars (\$50.00) per
16 occurrence and not more than one thousand dollars (\$1,000) per
17 occurrence or be imprisoned for not more than one year or
18 both. "

19 Section 3. REPEAL. -- Sections 17-2-4 and 17-2-16 NMSA
20 1978 (being Laws 1937, Chapter 217, Sections 1 and 2, as
21 amended) are repealed.