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HOUSE BILL 797

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

INTRODUCED BY

Bengie Regensberg

AN ACT

RELATING TO GAME AND FISH; AMENDING AND REPEALING CERTAIN
SECTIONS OF THE NMSA 1978 PERTAINING TO LANDOWNER PERMITS AND
LANDOWNER TAKINGS.

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

Section 1. Section 17-2-10 NMSA 1978 (being Laws 1931,
Chapter 117, Section 7, as amended) is amended to read:

"17-2-10. VIOLATION OF GAME AND FISH LAWS OR
[~~REGULATIONS~~] RULES - - PENALTIES. - -

A. [~~Any~~] A person violating any of the provisions
of Chapter 17 NMSA 1978 or any [~~regulations~~] rules adopted by
the state game commission that relate to the time, extent,
means or manner that game animals, birds or fish may be
hunted, taken, captured, killed, possessed, sold, purchased or
shipped is guilty of a misdemeanor and upon conviction may be

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1 sentenced to imprisonment in the county jail for a term not to
2 exceed six months. In addition, the person shall be sentenced
3 to the payment of a fine in accordance with the following
4 schedule:

5 (1) for illegally taking, attempting to take,
6 killing, capturing or possessing of each deer, antelope,
7 javelina, bear or cougar during a closed season, a fine of
8 four hundred dollars (\$400);

9 (2) for illegally taking, attempting to take,
10 killing, capturing or possessing of each elk, bighorn sheep,
11 oryx, ibex or Barbary sheep, a fine of one thousand dollars
12 (\$1,000);

13 (3) for hunting big game without a proper and
14 valid license, lawfully procured, a fine of one hundred
15 dollars (\$100);

16 (4) for exceeding the bag limit of any big
17 game species, a fine of four hundred dollars (\$400);

18 (5) for attempting to exceed the bag limit of
19 any big game species by the hunting of any big game animal
20 after having tagged a similar big game species, a fine of two
21 hundred dollars (\$200);

22 (6) for signing a false statement to procure
23 a resident hunting or fishing license when the applicant is
24 residing in another state at the time of application for a
25 license, a fine of four hundred dollars (\$400);

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1 (7) for using a hunting or fishing license
2 issued to another person, a fine of one hundred dollars
3 (\$100);

4 (8) for a violation of Section 17-2-31 NMSA
5 1978, a fine of three hundred dollars (\$300);

6 (9) for selling, offering for sale, offering
7 to purchase or purchasing any big game animal, unless
8 otherwise provided by Chapter 17 NMSA 1978, a fine of one
9 thousand dollars (\$1,000);

10 (10) for illegally taking, attempting to
11 take, killing, capturing or possessing of each jaguar, a fine
12 of two thousand dollars (\$2,000); and

13 (11) for a violation of the provisions of
14 Subsection A of Section 17-2A-3 NMSA 1978, a fine of five
15 hundred dollars (\$500).

16 B. A person convicted a second time for violating
17 any of the provisions of Chapter 17 NMSA 1978 or any
18 [~~regulations~~] rules adopted by the state game commission that
19 relate to the time, extent, means or manner that game animals,
20 birds or fish may be hunted, taken, captured, killed,
21 possessed, sold, purchased or shipped is guilty of a
22 misdemeanor and upon conviction may be sentenced to
23 imprisonment in the county jail for a term of not more than
24 three hundred sixty-four days. In addition, the person shall
25 be sentenced to the payment of a fine in accordance with the

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1 following schedule:

2 (1) for illegally taking, attempting to take,
3 killing, capturing or possessing of each deer, antelope,
4 javelina, bear or cougar during a closed season, a fine of six
5 hundred dollars (\$600);

6 (2) for illegally taking, attempting to take,
7 killing, capturing or possessing of each elk, bighorn sheep,
8 oryx, ibex or Barbary sheep, a fine of one thousand five
9 hundred dollars (\$1,500);

10 (3) for hunting big game without a proper and
11 valid license, lawfully procured, a fine of four hundred
12 dollars (\$400);

13 (4) for exceeding the bag limit of any big
14 game species, a fine of six hundred dollars (\$600);

15 (5) for attempting to exceed the bag limit of
16 any big game species by the hunting of any big game animal
17 after having tagged a similar big game species, a fine of six
18 hundred dollars (\$600);

19 (6) for signing a false statement to procure
20 a resident hunting or fishing license when the applicant is
21 residing in another state at the time of application for a
22 license, a fine of six hundred dollars (\$600);

23 (7) for using a hunting or fishing license
24 issued to another person, a fine of two hundred fifty dollars
25 (\$250);

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1 (8) for a violation of Section 17-2-31 NMSA
2 1978, a fine of five hundred dollars (\$500);

3 (9) for selling, offering for sale, offering
4 to purchase or purchasing any big game animal, unless
5 otherwise provided by Chapter 17 NMSA 1978, a fine of one
6 thousand five hundred dollars (\$1,500);

7 (10) for illegally taking, attempting to
8 take, killing, capturing or possessing of each jaguar, a fine
9 of four thousand dollars (\$4,000); and

10 (11) for a violation of the provisions of
11 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one
12 thousand dollars (\$1,000).

13 C. Notwithstanding the provisions of
14 Section 31-18-13 NMSA 1978, a person convicted a third or
15 subsequent time for violating any of the provisions of Chapter
16 17 NMSA 1978 or any ~~regulations~~ rules adopted by the state
17 game commission that relate to the time, extent, means or
18 manner that game animals, birds or fish may be hunted, taken,
19 captured, killed, possessed, sold, purchased or shipped is
20 guilty of a misdemeanor and upon conviction may be sentenced
21 to imprisonment in the county jail for a term of not less than
22 ninety days, which shall not be suspended or deferred, and not
23 more than three hundred sixty-four days. In addition, the
24 person shall be sentenced to the payment of a fine in
25 accordance with the following schedule:

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1 (1) for illegally taking, attempting to take,
2 killing, capturing or possessing of each deer, antelope,
3 javelina, bear or cougar during a closed season, a fine of one
4 thousand two hundred dollars (\$1,200);

5 (2) for illegally taking, attempting to take,
6 killing, capturing or possessing of each elk, bighorn sheep,
7 oryx, ibex or Barbary sheep, a fine of three thousand dollars
8 (\$3,000);

9 (3) for hunting big game without a proper and
10 valid license, lawfully procured, a fine of one thousand
11 dollars (\$1,000);

12 (4) for exceeding the bag limit of any big
13 game species, a fine of one thousand two hundred dollars
14 (\$1,200);

15 (5) for attempting to exceed the bag limit of
16 any big game species by the hunting of any big game animal
17 after having tagged a similar big game species, a fine of one
18 thousand dollars (\$1,000);

19 (6) for signing a false statement to procure
20 a resident hunting or fishing license when the applicant is
21 residing in another state at the time of application for a
22 license, a fine of one thousand two hundred dollars (\$1,200);

23 (7) for using a hunting or fishing license
24 issued to another person, a fine of one thousand dollars
25 (\$1,000);

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1 (8) for a violation of Section 17-2-31 NMSA
2 1978, a fine of one thousand dollars (\$1,000);

3 (9) for selling, offering for sale, offering
4 to purchase or purchasing any big game animal, unless
5 otherwise provided by Chapter 17 NMSA 1978, a fine of three
6 thousand dollars (\$3,000);

7 (10) for illegally taking, attempting to
8 take, killing, capturing or possessing of each jaguar, a fine
9 of six thousand dollars (\$6,000); and

10 (11) for a violation of the provisions of
11 Subsection A of Section 17-2A-3 NMSA 1978, a fine of two
12 thousand dollars (\$2,000).

13 D. ~~[Any]~~ A person who is convicted of a violation
14 of any ~~[regulations]~~ rules adopted by the state game
15 commission that relate to the time, extent, means or manner
16 that game animals, birds or fish may be hunted, taken,
17 captured, killed, possessed, sold, purchased or shipped or of
18 a violation of any of the provisions of Chapter 17 NMSA 1978,
19 for which a punishment is not set forth under this section,
20 shall be fined not less than fifty dollars (\$50.00) or more
21 than five hundred dollars (\$500) or imprisoned not more than
22 six months or both.

23 E. The provisions of this section shall not be
24 interpreted to prevent, constrain or penalize a Native
25 American for engaging in activities for religious purposes, as

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1 provided in Section 17-2-14 or 17-2-41 NMSA 1978.

2 ~~[F. The provisions of this section shall not apply~~
3 ~~to a landowner or lessee, or employee of either of them, who~~
4 ~~kills an animal on private land, in which they have an~~
5 ~~ownership or leasehold interest, that is threatening human~~
6 ~~life or damaging or destroying property, including crops;~~
7 ~~provided, however, that the killing is reported to the~~
8 ~~department of game and fish within twenty-four hours and~~
9 ~~before the removal of the carcass of the animal killed; and~~
10 ~~provided further that all actions authorized in this~~
11 ~~subsection are carried out according to regulations of the~~
12 ~~department.]"~~

13 Section 2. Section 17-2-26 NMSA 1978 (being Laws 1912,
14 Chapter 85, Section 45, as amended) is amended to read:

15 "17-2-26. CIVIL LIABILITY. --

16 A. The director of the department of game and
17 fish, or any other officer charged with enforcement of the
18 laws relating to game and fish if so directed by the director,
19 may bring a civil action in the name of the state against any
20 person unlawfully wounding or killing, or unlawfully in
21 possession of, any game quadruped, bird or fish, or part
22 thereof, and recover judgment for the following minimum sums
23 as damage for the taking, killing or injuring:

- 24 for each elk----- \$ 500.00
- 25 for each deer----- 250.00

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1	for each antelope-----	250. 00
2	for each mountain sheep-----	1, 000. 00
3	for each Barbary sheep-----	250. 00
4	for each black bear-----	500. 00
5	for each cougar-----	500. 00
6	for each bison-----	600. 00
7	for each ibex-----	1, 000. 00
8	for each oryx-----	1, 000. 00
9	for each javelina-----	100. 00
10	for each beaver-----	65. 00
11	for each bird-----	20. 00
12	for each fish-----	5. 00
13	for each endangered species-----	500. 00
14	for each raptor-----	200. 00
15	for each turkey-----	150. 00
16	for each jaguar-----	2, 000. 00.

17 B. No verdict or judgment recovered by the state
18 in an action shall be for less than the sum fixed in this
19 section. The action for damages may be joined with an action
20 for possession, and recovery may be had for the possession as
21 well as the damages.

22 C. The pendency or determination of an action for
23 damages or payment of a judgment, or the pendency or
24 determination of a criminal prosecution for the same taking,
25 wounding, killing or possession, is not a bar to the other,

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1 nor does either affect the right of seizure under any other
2 provision of the laws relating to game and fish.

3 D. The provisions of this section shall not be
4 interpreted to prevent, constrain or penalize a Native
5 American for engaging in activities for religious purposes, as
6 provided in Section 17-2-14 or 17-2-41 NMSA 1978.

7 ~~[E. The provisions of this section shall not apply~~
8 ~~to a landowner or lessee, or employee of either of them, who~~
9 ~~kills an animal on private land, in which they have an~~
10 ~~ownership or leasehold interest, that is threatening human~~
11 ~~life or damaging or destroying property, including crops;~~
12 ~~provided, however, that the killing is reported to the~~
13 ~~department of game and fish within twenty-four hours and~~
14 ~~before the removal of the carcass of the animal killed; and~~
15 ~~provided further that all actions authorized in this~~
16 ~~subsection are carried out according to regulations of the~~
17 ~~department.]"~~

18 Section 3. REPEAL. -- Sections 17-2-7.2, 17-3-14.1 and
19 17-3-14.2 NMSA 1978 (being Laws 1997, Chapter 224, Section 3,
20 Laws 1989, Chapter 86, Section 1 and Laws 1998, Chapter 12,
21 Section 1) are repealed.