

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 252

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Kathy M. McCoy

AN ACT

RELATING TO GAME AND FISH; PROVIDING FOR BEAR-PROOF CONTAINERS
IN DESIGNATED AREAS.

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
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

.159553.1

underscored material = new
[bracketed material] = delete

underscoring material = new
[bracketed material] = delete

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

14 B. The state game commission shall have authority
15 to:

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

21 (2) declare closed seasons in any specified
22 locality and on any species of game or fish threatened with
23 undue depletion from any cause;

24 (3) establish game refuges for the purpose of
25 providing safe sanctuaries in which game may breed and

.159553.1

underscored material = new
[bracketed material] = delete

1 replenish adjacent hunting ranges, it being the purpose of this
2 provision to establish small refuges rather than large
3 preserves or to close large areas to hunting;

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

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

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

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

23 (8) close any public stream or lake or portion
24 thereof to fishing when such action is necessary to protect a
25 recently stocked water, to protect spawning waters or to

.159553.1

underscoring material = new
[bracketed material] = delete

1 prevent undue depletion of the fish;

2 (9) propagate, capture, purchase, transport or
3 sell any species of game or fish needed for restocking any
4 lands or streams of the state;

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

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

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

20 (13) establish licenses, permits and
21 certificates not otherwise provided for in Section 17-3-13 NMSA
22 1978 and charge and collect just and reasonable fees for them;
23 provided the fees shall not exceed the costs of administration
24 associated with the licenses, permits or certificates;

25 (14) permit, regulate or prohibit the

.159553.1

1 commercial taking or capturing of native, free-ranging
2 amphibians or reptiles not specifically protected by law,
3 except for rattlesnake roundups, collection of fish bait and
4 lizard races;

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

9 (a) notification to the department of
10 game and fish of the diagnosis or suspected presence of a
11 contagious disease;

12 (b) examination by the state
13 veterinarian or the state veterinarian's designee of suspected
14 infected game animals;

15 (c) quarantine, treatment or destruction
16 of an infected game animal;

17 (d) disinfection and isolation of a
18 licensed private park where an infected game animal has been;
19 and

20 (e) indemnification and destruction of a
21 protected game animal;

22 (16) as necessary, designate areas of the
23 state in which bear-proof garbage containers are required on
24 public and private lands to reduce potential human-bear
25 interactions; and

.159553.1

underscored material = new
[bracketed material] = delete

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

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

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

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

21 F. The state game commission may designate areas
22 where bear-proof garbage containers are required. The state
23 game commission shall notify, within thirty days after
24 designating such an area, each county, municipality or other
25 political subdivision in that area of the designation. A

.159553.1

underscored material = new
[bracketed material] = delete

1 political subdivision in which bear-proof containers are
2 required shall establish a plan for the implementation and
3 enforcement of requirements for the use of bear-proof
4 containers in these designated areas. The state game
5 commission may use the big game depredation damage fund for
6 cooperative funding to encourage cost-effective implementation
7 with a political subdivision requesting assistance in
8 implementing its plan. As used in this subsection, "bear-proof
9 container" means a covered dumpster or container that is
10 structurally configured and constructed of materials to prevent
11 or substantially impede access by wildlife or a container
12 enclosed in an area not accessible to wildlife. The state game
13 commission shall adopt rules on the capacity requirements of
14 bear-proof containers located at commercial establishments or
15 in use as community dumpsters and on an exemption from the
16 rules for small capacity containers at residential properties.
17 A container that exists at the time a county, municipal or
18 other political subdivision's plan is implemented and that has
19 a future life expectancy of three years or more is not required
20 to be a bear-proof container for a period of three years from
21 implementation of the plan."

22 - 7 -
23
24
25

.159553.1