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HOUSE BILL 92

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Alonzo Baldonado

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF CHAPTER 17 NMSA
1978 TO PROVIDE STRICTER PENALTIES FOR MAJOR VIOLATIONS.

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

SECTION 1. Section 17-2-7 NMSA 1978 (being Laws 1931,
Chapter 117, Section 8, as amended) is amended to read:

"17-2-7. UNLAWFUL HUNTING OR FISHING.--

A. Except as permitted by [~~regulations~~] rules
adopted by the state game commission or as otherwise allowed by
law, it is unlawful to:

(1) hunt, take, capture, kill or attempt to
take, capture or kill, at any time or in any manner, any game
animal, game bird or game fish in the state; or

(2) possess, offer for sale, sell, offer to
purchase or purchase in the state all or any part of any game

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1 animal, game bird or game fish.

2 B. Notwithstanding any other law, the owner of
3 domestic livestock in this state or [~~his~~] the owner's regular
4 employee may hunt, take, capture or kill any cougar or bear
5 [~~which~~] that has killed domestic livestock. The owner of
6 livestock or [~~his~~] the owner's regular employee who takes
7 action under this provision [~~will~~] shall report this action to
8 the department of game and fish, [~~who will~~] which shall verify
9 the necessity of the action taken.

10 C. Violation of this section [~~is a misdemeanor and~~]
11 shall be punished as provided in Section 17-2-10 NMSA 1978.

12 D. The provisions of this section shall not be
13 deemed to prohibit the possession of game animals, birds or
14 fish taken legally in any other jurisdiction."

15 SECTION 2. Section 17-2-8 NMSA 1978 (being Laws 1977,
16 Chapter 70, Section 1) is amended to read:

17 "17-2-8. UNLAWFUL TAKING OF BIG GAME AND WASTE OF GAME.--

18 A. It is unlawful for any person:

19 [~~A. who hunts or fishes and takes any game mammal~~
20 ~~designated in Paragraphs (2), (3) or (4) of Subsection A of~~
21 ~~Section 53-2-3 NMSA 1953, any game bird or any game fish to~~
22 ~~fail to transport the edible portions of the meat obtained to~~
23 ~~his home for human consumption or to provide for the human~~
24 ~~consumption thereof under any commission regulations pertaining~~
25 ~~to exportation, transportation and donation of game; or~~

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1 ~~B. who wounds or may have wounded any game mammal~~
2 ~~designated in Paragraphs (2), (3) or (4) of Subsection A of~~
3 ~~Section 53-2-3 NMSA 1953 to fail to go to the place where the~~
4 ~~mammal sustained or may have sustained the wound and make a~~
5 ~~reasonable attempt to track the mammal and reduce it to~~
6 ~~possession]~~

7 (1) to take or kill a bighorn sheep, ibex,
8 oryx, Barbary sheep, elk, deer or pronghorn antelope outside of
9 the legal season or without a valid license, which taking or
10 killing results in waste of the animal. Waste of the animal
11 consists of removing from the animal only the head, antlers or
12 horns or leaving any of the four quarters, backstraps or
13 tenderloins of the carcass to waste;

14 (2) who hunts or fishes and takes any game
15 mammal designated in Paragraph (2), (3) or (4) of Subsection A
16 of Section 17-2-3 NMSA 1978, any game bird or any game fish to
17 fail to transport the edible portions of the meat obtained to
18 the person's home for human consumption or to provide for the
19 human consumption thereof under any state game commission rules
20 pertaining to exportation, transportation and donation of game;
21 or

22 (3) who wounds or may have wounded any game
23 mammal designated in Paragraph (2), (3) or (4) of Subsection A
24 of Section 17-2-3 NMSA 1978 to fail to go to the place where
25 the mammal sustained or might have sustained the wound and make

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1 a reasonable attempt to track the mammal and reduce it to
2 possession.

3 B. Violation of Paragraph (1) of Subsection A of
4 this section is a fourth degree felony pursuant to Section
5 31-18-15 NMSA 1978, and violation of Paragraph (2) or (3) of
6 Subsection A of this section is a misdemeanor pursuant to
7 Section 17-2-10 NMSA 1978."

8 SECTION 3. Section 17-2-10 NMSA 1978 (being Laws 1931,
9 Chapter 117, Section 7, as amended) is amended to read:

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

12 A. [~~Any~~] A person violating any of the provisions
13 of Chapter 17 NMSA 1978, except for Section 17-2-8 NMSA 1978,
14 or any [~~regulations~~] rules adopted by the state game commission
15 that relate to the time, extent, means or manner that game
16 animals, birds or fish may be hunted, taken, captured, killed,
17 possessed, sold, purchased or shipped is guilty of a
18 misdemeanor and upon conviction may be sentenced to
19 imprisonment in the county jail [~~for a term not to exceed six~~
20 ~~months~~] pursuant to Section 31-19-1 NMSA 1978. In addition,
21 the person shall be sentenced to the payment of a fine in
22 accordance with the following schedule:

23 (1) for illegally taking, attempting to take,
24 killing, capturing or possessing of each deer, antelope,
25 javelina, bear or cougar during a closed season, a fine of four

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1 hundred dollars (\$400);

2 (2) for illegally taking, attempting to take,
3 killing, capturing or possessing of each elk, bighorn sheep,
4 oryx, ibex or Barbary sheep, a fine of one thousand dollars
5 (\$1,000);

6 (3) for hunting big game without a proper and
7 valid license, lawfully procured, a fine of one hundred dollars
8 (\$100);

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

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

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

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

21 (8) for a violation of Section 17-2-31 NMSA
22 1978, a fine of three hundred dollars (\$300);

23 (9) for selling, offering for sale, offering
24 to purchase or purchasing any big game animal, unless otherwise
25 provided by Chapter 17 NMSA 1978, a fine of one thousand

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1 dollars (\$1,000);

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

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

8 B. A person convicted a second time for violating
9 any of the provisions of Chapter 17 NMSA 1978, except for
10 Section 17-2-8 NMSA 1978, or any [~~regulations~~] rules adopted by
11 the state game commission that relate to the time, extent,
12 means or manner that game animals, birds or fish may be hunted,
13 taken, captured, killed, possessed, sold, purchased or shipped
14 is guilty of a misdemeanor and upon conviction may be sentenced
15 to imprisonment in the county jail [~~for a term of not more than~~
16 ~~three hundred sixty-four days~~] pursuant to Section 31-19-1 NMSA
17 1978. In addition, the person shall be sentenced to the
18 payment of a fine in accordance with the following schedule:

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

23 (2) for illegally taking, attempting to take,
24 killing, capturing or possessing of each elk, bighorn sheep,
25 oryx, ibex or Barbary sheep, a fine of one thousand five

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1 hundred dollars (\$1,500);

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

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

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

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

15 (7) for using a hunting or fishing license
16 issued to another person, a fine of two hundred fifty dollars
17 (\$250);

18 (8) for a violation of Section 17-2-31 NMSA
19 1978, a fine of five hundred dollars (\$500);

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

24 (10) for illegally taking, attempting to take,
25 killing, capturing or possessing of each jaguar, a fine of four

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1 thousand dollars (\$4,000); and

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

5 C. Notwithstanding the provisions of Section
6 31-18-13 NMSA 1978, a person convicted a third or subsequent
7 time for violating any of the provisions of Chapter 17 NMSA
8 1978, except for Section 17-2-8 NMSA 1978, or any [~~regulations~~]
9 rules adopted by the state game commission that relate to the
10 time, extent, means or manner that game animals, birds or fish
11 may be hunted, taken, captured, killed, possessed, sold,
12 purchased or shipped is guilty of a misdemeanor and upon
13 conviction may be sentenced to imprisonment in the county jail
14 for a term of not less than ninety days, which shall not be
15 suspended or deferred, and not more than three hundred sixty-
16 four days. In addition, the person shall be sentenced to the
17 payment of a fine in accordance with the following schedule:

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

22 (2) for illegally taking, attempting to take,
23 killing, capturing or possessing of each elk, bighorn sheep,
24 oryx, ibex or Barbary sheep, a fine of three thousand dollars
25 (\$3,000);

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

4 (4) for exceeding the bag limit of any big
5 game species, a fine of one thousand two hundred dollars
6 (\$1,200);

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

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

15 (7) for using a hunting or fishing license
16 issued to another person, a fine of one thousand dollars
17 (\$1,000);

18 (8) for a violation of Section 17-2-31 NMSA
19 1978, a fine of one thousand dollars (\$1,000);

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

24 (10) for illegally taking, attempting to take,
25 killing, capturing or possessing of each jaguar, a fine of six

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1 thousand dollars (\$6,000); and

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

5 D. ~~Any~~ A person who is convicted of a violation
6 of any ~~regulations~~ rules adopted by the state game commission
7 that relate to the time, extent, means or manner that game
8 animals, birds or fish may be hunted, taken, captured, killed,
9 possessed, sold, purchased or shipped or of a violation of any
10 of the provisions of Chapter 17 NMSA 1978, except for Section
11 17-2-8 NMSA 1978, for which a punishment is not set forth under
12 this section, shall be fined not less than fifty dollars
13 (\$50.00) or more than five hundred dollars (\$500) or imprisoned
14 not more than six months or both.

15 E. The provisions of this section shall not be
16 interpreted to prevent, constrain or penalize a Native American
17 for engaging in activities for religious purposes, as provided
18 in Section 17-2-14 or 17-2-41 NMSA 1978.

19 F. The provisions of this section shall not apply
20 to a landowner or lessee, or employee of either of them, who
21 kills an animal on private land, in which they have an
22 ownership or leasehold interest, that is threatening human life
23 or damaging or destroying property, including crops; provided,
24 however, that the killing is reported to the department of game
25 and fish within twenty-four hours and before the removal of the

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1 carcass of the animal killed; and provided further that all
2 actions authorized in this subsection are carried out according
3 to [~~regulations~~] rules of the department."

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