

1 SENATE BILL 32

2 **55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

3 INTRODUCED BY

4 Roberto "Bobby" J. Gonzales and Brenda McKenna
5 and Matthew McQueen and Christine Chandler
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10 AN ACT

11 RELATING TO WILDLIFE; ENACTING THE WILDLIFE CONSERVATION AND
12 PUBLIC SAFETY ACT; PROVIDING FOR RESTRICTIONS ON THE USE OF
13 TRAPS, SNARES AND POISONS; PROVIDING PENALTIES.
14

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

16 SECTION 1. A new Section 17-11-1 NMSA 1978 is enacted to
17 read:

18 "17-11-1. [NEW MATERIAL] SHORT TITLE.--Chapter 17,
19 Article 11 NMSA 1978 may be cited as the "Wildlife Conservation
20 and Public Safety Act"."

21 SECTION 2. A new Section 17-11-2 NMSA 1978 is enacted to
22 read:

23 "17-11-2. [NEW MATERIAL] DEFINITIONS.--As used in the
24 Wildlife Conservation and Public Safety Act:

25 A. "bona fide scientific research" means a research

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underscored material = new
~~[bracketed material] = delete~~

1 project that is not being conducted for commercial gain from
2 the sale of animal parts and that is conducted by employees or
3 contractors of the department or authorized by a scientific
4 collection permit from the department;

5 B. "cage trap" means a trap that captures a live
6 animal but does not grip an animal's body or body part and is
7 not intended to kill the animal, including a live trap, a cage
8 or box trap, a colony trap, a net and a suitcase-type live
9 beaver trap;

10 C. "department" means the department of game and
11 fish;

12 D. "depredation trapping" means the act of setting
13 traps, snares or poisons on public land to reduce or prevent
14 damage caused by wildlife to property or waterways, including
15 harvested and stored crops and livestock;

16 E. "domestic animal" means any animal that is bred
17 for and is typically subject to human control;

18 F. "ecosystem management" means actions that are
19 necessary to maintain or increase the long-term sustainability
20 and integrity of an entire system of living wildlife and their
21 environment, including the restoration and conservation of
22 wildlife populations and habitat, wildlife relocation, medical
23 treatment of wildlife and the protection of threatened or
24 endangered species;

25 G. "feral animal" means a domestic animal existing

1 in an untamed state outside captivity or domestication and not
2 under human control;

3 H. "government entity" means a local, state or
4 federal government body or agency, a political subdivision of
5 the state or an employee, agent or representative of the body,
6 agency or political subdivision when acting within the scope of
7 its governmental duties, but does not include an Indian nation,
8 tribe or pueblo;

9 I. "leghold trap" means a spring-actuated device,
10 either padded or unpadded, designed to capture an animal by the
11 foot, leg or other limb, including a steel-jawed leghold trap,
12 a padded-jaw leghold trap, a foot-hold trap, an egg trap, a
13 duffer trap and all other similar traps;

14 J. "lethal body-gripping trap" means a rotating jaw
15 trap designed to capture an animal by the body that is intended
16 to fatally crush or otherwise kill the animal and includes
17 conibear traps and all other similar traps;

18 K. "public land" means state-owned land, state-
19 leased land, lands held in trust by the state, lands
20 administered by the United States forest service, the federal
21 bureau of land management, the national park service, the
22 United States department of defense, state parks and any county
23 or municipality, but does not include the interior of physical
24 structures or land belonging to or held in trust for an Indian
25 nation, tribe or pueblo;

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1 L. "snare" means a wire or cable with a single
2 closing device, often with a noose, with or without stops, that
3 is used to capture, strangle or otherwise entangle an animal,
4 but does not include use of a catch pole, leash or tether
5 lawfully used by a person to temporarily restrain or relocate
6 an animal;

7 M. "trap" includes a leghold trap, lethal body-
8 gripping trap or cage trap;

9 N. "wildlife" means a member of a vertebrate
10 species that is native to or found in New Mexico that is not
11 under the direct control of a human or in captivity, but does
12 not include a feral or escaped domestic animal; and

13 O. "wildlife poison" means an explosive compound or
14 deleterious substance used in a manner intended to kill
15 wildlife."

16 SECTION 3. A new Section 17-11-3 NMSA 1978 is enacted to
17 read:

18 "17-11-3. [NEW MATERIAL] PROHIBITIONS ON PUBLIC LAND.--It
19 is a violation of the Wildlife Conservation and Public Safety
20 Act to use a trap, snare or wildlife poison for purposes of
21 capturing, injuring or killing an animal on public land except
22 as provided in Section 17-11-4 NMSA 1978."

23 SECTION 4. A new Section 17-11-4 NMSA 1978 is enacted to
24 read:

25 "17-11-4. [NEW MATERIAL] EXCEPTIONS.--The provisions of
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1 the Wildlife Conservation and Public Safety Act do not apply
2 to:

3 A. the taking of wildlife with firearms, fishing
4 equipment, archery equipment, falconry equipment or other
5 implements in hand, when used as authorized by law;

6 B. the taking or control of birds, fish or rodents
7 not defined as furbearers in Section 17-5-2 NMSA 1978;

8 C. a government entity acting in the course of its
9 official duties to prevent or mitigate actual threats to human
10 health and safety;

11 D. ecosystem management conducted by the
12 department, the United States fish and wildlife service or a
13 conservancy district of the state or its employee, agent or
14 representative acting in the course of its official duties;

15 E. bona fide scientific research;

16 F. depredation trapping conducted by the department
17 or a designated agent of the department using non-lethal traps
18 or non-lethal snares, but only when accompanied by visible
19 signs at the location of each device notifying the public of
20 the presence of such devices;

21 G. the use of cage traps to recover or to provide
22 veterinary care or husbandry to a domestic animal or feral
23 animal as authorized by law, or to abate damages caused by any
24 animal to property, crops or livestock; provided that:

25 (1) once the damage has been abated, use of

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1 the cage trap shall cease; and

2 (2) any captured animal is disposed of in
3 accordance with rules established by the department or
4 appropriate animal agency; or

5 H. enrolled members of a federally recognized
6 Indian nation, tribe or pueblo when trapping is conducted
7 solely for religious or ceremonial purposes."

8 SECTION 5. A new Section 17-11-5 NMSA 1978 is enacted to
9 read:

10 "17-11-5. [NEW MATERIAL] PENALTIES.--

11 A. A person who violates the Wildlife Conservation
12 and Public Safety Act is guilty of a misdemeanor. Each
13 individual trap, snare or application of wildlife poison shall
14 constitute a single violation of that act.

15 B. Any penalties under this section shall be
16 cumulative to any other available penalties provided by law.

17 C. In addition to other penalties, upon conviction,
18 the court may consider appropriate restitution to a state
19 agency that incurs costs in enforcing the Wildlife Conservation
20 and Public Safety Act."

21 SECTION 6. EFFECTIVE DATE.--The effective date of the
22 provisions of this act is April 1, 2022.