SENATE BILL 32

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

INTRODUCED BY

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AN ACT

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

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

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

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

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

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

A. "bona fide scientific research" means a research
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project that is not being conducted for commercial gain from
the sale of animal parts and that is conducted by employees or
contractors of the department or authorized by a scientific
collection permit from the department;

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

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

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

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

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

G. "feral animal" means a domestic animal existing
in an untamed state outside captivity or domestication and not
under human control;

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

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

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

K. "public land" means state-owned land, state-
leased land, lands held in trust by the state, lands
administered by the United States forest service, the federal
bureau of land management, the national park service, the
United States department of defense, state parks and any county
or municipality, but does not include the interior of physical
structures or land belonging to or held in trust for an Indian
nation, tribe or pueblo;
L. "snare" means a wire or cable with a single closing device, often with a noose, with or without stops, that is used to capture, strangle or otherwise entangle an animal, but does not include use of a catch pole, leash or tether lawfully used by a person to temporarily restrain or relocate an animal;

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

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

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

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

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

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

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

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

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

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

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

E. bona fide scientific research;

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

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

(1) once the damage has been abated, use of
the cage trap shall cease; and

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

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

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

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

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

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

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

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

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