

SENATE TAX, BUSINESS AND TRANSPORTATION
COMMITTEE SUBSTITUTE FOR
SENATE BILL 419

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

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
NARROWING CONDITIONS FOR LANDOWNER TAKING OR KILLING ANIMALS ON
PRIVATE LAND; REVISING PROVISIONS FOR TAKING OR WASTING OF
GAME; AMENDING PROVISIONS REGARDING THE BIG GAME DEPREDATION
DAMAGE FUND.

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

SECTION 1. Section 17-2-7.2 NMSA 1978 (being Laws 1997,
Chapter 224, Section 3) is amended to read:

"17-2-7.2. LANDOWNER TAKING--CONDITIONS--DEPARTMENT
RESPONSIBILITIES.--

A. A landowner or lessee, or employee of either,
may take or kill an animal, on private land in which [~~they~~
~~have~~] the landowner or lessee has an ownership or leasehold
interest, including game animals and other quadrupeds, game

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underscoring material = new
[bracketed material] = delete

1 birds and fowl, that presents an immediate threat to human life
2 [~~or an immediate threat of damage to property, including~~
3 ~~crops~~]; provided, however, that the taking or killing is
4 reported to the department [~~of game and fish~~] within twenty-
5 four hours and before the removal of the carcass of the animal
6 killed, in accordance with [~~regulations~~] rules adopted by the
7 commission.

8 B. A landowner or lessee, or employee of either,
9 may take or kill [~~animals~~] an animal, on private land in which
10 [~~they have~~] the landowner or lessee has an ownership or
11 leasehold interest, including game animals and other
12 quadrupeds, game birds and fowl, that [~~present~~] has damaged or
13 presents a threat [~~to human life or~~] of damage to property,
14 including crops, according to [~~regulations~~] rules adopted by
15 the commission.

16 C. The [~~regulations~~] rules promulgated by the
17 commission pursuant to Subsection B of this section shall:

18 (1) provide when, whether and by what manner
19 and method a species can be taken or killed in order to
20 mitigate damage;

21 [~~(1)~~] (2) provide a method for filing a
22 complaint to the department by the landowner or lessee, or
23 employee of either of them, of the existence of a depredation
24 problem;

25 [~~(2)~~] (3) provide for various departmental

1 interventions, depending upon the type of animal and
2 depredation;

3 ~~[(3)]~~ (4) require the department to offer at
4 least three different interventions, if practical;

5 ~~[(4)]~~ (5) require the department to respond to
6 the initial and any subsequent complaints within ten days with
7 an intervention response to the complaint and to carry out the
8 intervention, if agreed upon between the department and the
9 landowner, within five days of that agreement;

10 ~~[(5)]~~ (6) permit the landowner or lessee to
11 reject for good cause the interventions offered by the
12 department; and

13 ~~[(6)]~~ (7) require a landowner or lessee to
14 demonstrate that the property depredation is greater in value
15 than the value of any wildlife-related income or fee collected
16 by the landowner or lessee for permission to take or kill an
17 animal of the same species on the private property or portion
18 of the private property identified in the complaint as the
19 location where the depredation occurred. [~~and~~

20 ~~(7) permit the landowner, lessee or employee,~~
21 ~~when interventions by the department have not been successful~~
22 ~~and after one year from the date of the filing of the initial~~
23 ~~complaint, to kill or take an animal believed responsible for~~
24 ~~property depredation.~~

25 G.] D. For purposes of this section:

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1 (1) "commission" means the state game
2 commission;

3 (2) "department" means the department of game
4 and fish; and

5 (3) "intervention" means a solution proposed
6 by the department to eliminate the depredation."

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

9 "17-2-8. UNLAWFUL TAKING OF BIG GAME AND WASTE OF GAME.--

10 A. It is unlawful for any person:

11 (1) who hunts or fishes and takes any game
12 mammal designated in [~~Paragraphs~~] Paragraph (1), (2), (3), [~~or~~]
13 (4), (9) or (10) of Subsection A of Section 17-2-3 NMSA 1978,
14 any game bird or any game fish to fail to transport the edible
15 portions of the meat obtained to the person's home for human
16 consumption or to provide for the human consumption thereof
17 under any commission [~~regulations~~] rules pertaining to
18 exportation, transportation and donation of game;

19 (2) who wounds or may have wounded any game
20 mammal designated in [~~Paragraphs~~] Paragraph (1), (2), (3), [~~or~~]
21 (4), (9) or (10) of Subsection A of Section 17-2-3 NMSA 1978 to
22 fail to go to the place where the mammal sustained or may have
23 sustained the wound and make a reasonable attempt to track the
24 mammal and reduce it to possession; or

25 (3) to take or kill a bighorn sheep, ibex,

1 oryx, Barbary sheep, elk, deer or pronghorn antelope, javelina,
 2 bear or cougar outside of the legal season or without a valid
 3 license, which taking or killing results in waste of the
 4 animal. Waste of the animal consists of removing from the
 5 animal only the head, antlers or horns of a bighorn sheep,
 6 ibex, oryx, Barbary sheep, elk, deer, pronghorn antelope or
 7 javelina, the pelt or head of a bear or cougar or abandoning
 8 any of the four quarters, backstraps or tenderloins of the
 9 carcass. A violation of the provisions of this paragraph is
 10 intended to be separate from and cumulative to any other
 11 violation of Chapter 17 NMSA 1978.

12 B. Violation of Paragraph (3) of Subsection A of
 13 this section is a fourth degree felony pursuant to Section
 14 31-18-15 NMSA 1978, and violation of Paragraph (1) or (2) of
 15 Subsection A of this section is a misdemeanor pursuant to
 16 Section 17-2-10 NMSA 1978."

17 SECTION 3. Section 17-3-13.4 NMSA 1978 (being Laws 2001,
 18 Chapter 213, Section 2) is amended to read:

19 "17-3-13.4. BIG GAME DEPREDATION DAMAGE FUND--CREATION--
 20 EXPENDITURE.--

21 A. The "big game depredation damage fund" is
 22 created in the state treasury. The fund consists of
 23 appropriations made to the fund, revenues received by the
 24 department of game and fish from the sale of big game
 25 depredation damage stamps and earnings from the investment of

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1 the fund. The fund shall be administered by the department,
2 and money in the fund is appropriated to the department to
3 carry out the provisions of Subsection B of this section.
4 Payments from the fund shall be by warrant of the secretary of
5 finance and administration upon vouchers signed by the director
6 of the department or ~~[his]~~ the director's authorized
7 representative. Balances in the fund shall not revert to any
8 other fund.

9 B. The department of game and fish shall, by rule,
10 establish a program to correct damage to federal, state or
11 private land caused by big game and to prevent such damage in
12 the future. Pursuant to rules adopted by the department,
13 expenditures from the big game depredation damage fund shall be
14 made by the department to carry out the established program
15 ~~[provided that money in the fund shall not be expended for any~~
16 ~~administrative costs]."~~

17 SECTION 4. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is January 1, 2022.