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SENATE BILL 193

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

MICHAEL S. SANCHEZ

AN ACT

RELATING TO HUNTING LICENSES; IMPOSING LIMITATIONS ON THE NUMBER
OF CERTAIN HUNTING LICENSES TO BE ISSUED TO NONRESIDENTS;
ESTABLISHING CRITERIA FOR THE DESIGNATION OF HIGH-DEMAND UNITS;
DECLARING AN EMERGENCY.

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

Section 1. Section 17-3-16 NMSA 1978 (being Laws 1964 (1st
S.S.), Chapter 17, Section 7) is amended to read:

"17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES. --

A. The director of the department of game and fish
may provide special envelopes and application blanks where a
drawing is to be held to determine the persons to receive
licenses. Money required to be submitted with these
applications, if enclosed in the special envelopes, need not be
deposited with the state treasurer but may be held by the

Underscored material = new
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1 director until the successful applicants are determined. At
2 that time, the fees of the successful applicants shall be
3 deposited with the state treasurer and the fees submitted by the
4 unsuccessful applicants shall be returned to them.

5 B. No more than ten percent of the licenses issued
6 by hunt code in each unit for special drawings on public land
7 may be issued to nonresidents.

8 C. The fee for a nonresident license for a special
9 drawing in a high-demand hunt shall be assessed at the same rate
10 as a license for nonresident quality elk or deer. As used in
11 this subsection, "high-demand hunt" means:

12 (1) a hunt where the total number of
13 nonresident applicants for a hunt code in each unit exceeds
14 twenty percent based on data for two successive years beginning
15 with the 1994 application data; and

16 (2) an additional hunt code designated by the
17 department as a quality hunt. "

18 Section 2. EFFECTIVE DATE. --The effective date of the
19 provisions of this act is April 1, 1996.

20 Section 3. EMERGENCY. --It is necessary for the public
21 peace, health and safety that this act take effect immediately.

1 FORTY- SECOND LEGI SLATURE
2 SECOND SESSI ON, 1996
3
4

5 JANUARY 24, 1996
6

7 Mr. Presi dent:
8

9 Your COMMI TTEES' COMMI TTEE, to whom has been referred
10

11 SENATE BILL 193
12

13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO CONSTITUTIONAL PROVISIONS, and thence referred to the
15 CONSERVATI ON COMMI TTEE.
16

17 Respectfully submi tted,
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22 _____
23 SENATOR MANNY M. ARAGON, Chai rman
24
25

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

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Date _____

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

SB 193/a

February 1, 1996

Mr. President:

Your CONSERVATION COMMITTEE, to whom has been referred

SENATE BILL 193

has had it under consideration and reports same with recommendation that
it DO PASS, amended as follows:

1. On page 1, lines 13 and 14 strike "; DECLARING AN EMERGENCY".

2. On page 2, line 19, strike "1996" and insert in lieu thereof
"1997".

3. On page 2, strike lines 20 and 21,

and thence referred to the FINANCE COMMITTEE.

Respectfully submitted,

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Page 6

Tom R. Benavides, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 4 For 1 Against

Yes: 4

No: Lyons

Excused: Rutherford, Tsosie, Vernon, Wray

Absent: 0

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Page 7

**FORTY- SECOND LEGI SLATURE
SECOND SESSI ON, 1996**

February 11, 1996

Mr. President:

Your FINANCE COMMI TTEE, to whom has been referred

SENATE BILL 193, as amended

has had it under consideration and reports same with recommendation that
it DO NOT PASS, but that

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 193

DO PASS.

Respectfully submitted,

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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Page 8

Ben D. Altamirano, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

No: 0

Excused: Duran, Kysar, Nava

Absent: None

S0193FC1

Underscored material = new
[bracketed material] = delete

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 193

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
1996

AN ACT

RELATING TO HUNTING LICENSES; IMPOSING LIMITATIONS ON THE NUMBER
OF CERTAIN HUNTING LICENSES TO BE ISSUED TO NONRESIDENTS;
ESTABLISHING CRITERIA FOR THE DESIGNATION OF HIGH-DEMAND UNITS;
IMPOSING REQUIREMENTS CONCERNING GUIDES AND OUTFITTERS;
AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NMSA
1978.

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

Section 1. Section 17-3-16 NMSA 1978 (being Laws 1964 (1st
S.S.), Chapter 17, Section 7) is amended to read:

"17-3-16. FUNDS--SPECIAL DRAWINGS FOR LICENSES. --

A. The director of the department of game and fish may
provide special envelopes and application blanks ~~[where]~~ when a
special drawing is to be held to determine the persons to

1 receive licenses. Money required to be submitted with these
2 applications, if enclosed in the special envelopes, need not be
3 deposited with the state treasurer but may be held by the
4 director until the successful applicants are determined. At
5 that time, the fees of the successful applicants shall be
6 deposited with the state treasurer and the fees submitted by the
7 unsuccessful applicants shall be returned to them.

8 B. Beginning with the licenses issued from a special
9 drawing for a hunt code on public lands that commences on or
10 after April 1, 1997:

11 (1) seventeen percent of the licenses shall be
12 issued to nonresidents. Except for antelope and javelina
13 licenses, each nonresident applicant shall, at the time of
14 submission of the application for the license, sign the
15 application and identify the registration number of the New
16 Mexico registered outfitter who will be used with the hunting
17 party that includes the nonresident. The nonresident shall be
18 required to contract for outfitting services with the New Mexico
19 registered outfitter identified in the application. Except for
20 antelope and javelina licenses, the nonresident shall not be
21 allowed to hunt with a license issued from a drawing for a hunt
22 on public lands without utilizing and being physically
23 accompanied on the hunt by the New Mexico registered outfitter
24 identified in the application, or one of that outfitter's
25 guides; provided, however, that this requirement shall not apply

1 to lands under the control of the federal military if the military
2 objects to it. In a hunt covered by this paragraph that requires a
3 New Mexico registered guide, there shall be at least one New Mexico
4 registered guide or outfitter accompanying every four or fewer
5 nonresident hunters;

6 (2) three percent of the licenses shall be issued to
7 individuals listed on an application where at least two of the
8 applicants are residents and no more than two of the applicants are
9 nonresidents. Each resident must be a New Mexico resident for at
10 least one year prior to submitting the application. Nonresidents
11 listed on such applications shall not be required to utilize the
12 services of a registered New Mexico guide or outfitter, provided
13 the nonresidents are physically accompanied on the hunt for that
14 hunt code by the residents listed on the application; and

15 (3) eighty percent of the licenses shall be issued
16 to residents of New Mexico.

17 C. If the number of nonresidents who apply for licenses
18 pursuant to the provisions of Paragraphs (1) and (2) of Subsection
19 B of this section does not constitute the allocated percentages
20 identified in those provisions for a hunt code, then all of the
21 nonresident applicants shall be granted licenses, and the remainder
22 of the licensees shall be made available to residents for the
23 special drawing for that hunt code.

24 D. If the determination of seventeen percent or three
25 percent in Paragraphs (1) and (2) of Subsection B of this section

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1 yields a fraction of:

2 (1) five-tenths or greater, the number of licenses
3 to be issued shall be rounded up to the next whole number; and

4 (2) less than five-tenths, the number of licenses
5 shall be rounded down to the next whole number.

6 E. The fee for a nonresident license for a special
7 drawing in a high-demand hunt covered in Subsection B of this
8 section shall be assessed at the same rate as a license for
9 nonresident quality elk or quality deer. As used in this
10 subsection, "high-demand hunt" means:

11 (1) a hunt where the total number of nonresident
12 applicants for a hunt code in each unit exceeds twenty percent of
13 the total applicants based on data for the two immediately
14 preceding years; or

15 (2) an additional hunt code designated by the
16 department as a quality hunt. "

17 Section 2. Effective June 30, 1999, Section 17-3-16 NMSA 1978
18 (being Laws 1964 (1st S.S.), Chapter 17, Section 7, as amended by
19 Section 1 of this act) is repealed and a new Section 17-3-16 NMSA
20 1978 is enacted to read:

21 "17-3-16. [NEW MATERIAL] FUNDS--SPECIAL DRAWINGS FOR
22 LICENSES.--The director of the department of game and fish may
23 provide special envelopes and application blanks when a special
24 drawing is to be held to determine the persons to receive licenses.
25 Money required to be submitted with these applications, if enclosed

1 in the special envelopes, need not be deposited with the state
2 treasurer but may be held by the director until the successful
3 applicants are determined. At that time, the fees of the
4 successful applicants shall be deposited with the state treasurer
5 and the fees submitted by the unsuccessful applicants shall be
6 returned to them "

7 Section 3. A new section of Chapter 17 NMSA 1978 is enacted
8 to read:

9 "[NEW MATERIAL] DEFINITIONS. -- For the purposes of Chapter 17
10 NMSA 1978:

11 A. "hunt code" means a description used to identify and
12 define the species, weapon type and time frame authorized for a
13 specific hunt;

14 B. "outfitter" or "guide" means a person who advertises
15 or holds himself out to the public for hire or is employed or
16 accepts compensation for providing, within the unit where a hunt
17 occurs, facilities, equipment or services for hunting activities;
18 provided, however, that "outfitter" or "guide" does not include a
19 person who only cooks, cuts wood or performs other comparable or
20 incidental duties not directly related to hunting activities; and

21 C. "unit" means a geographically bound area in the state
22 that is used to manage game species."

23 Section 4. A new section of Chapter 17 NMSA 1978 is enacted
24 to read:

25 "[NEW MATERIAL] STATEWIDE SYSTEM FOR HUNTING ACTIVITIES. -- The

Underscored material = new
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1 state game commission shall develop a statewide system for hunting
2 activities that increases participation by New Mexico residents and
3 considers hunter safety, quality hunts, high demand areas, guides
4 and outfitters, quotas and local and financial interests."

5 Section 5. A new section of Chapter 17 NMSA 1978 is enacted
6 to read:

7 "[NEW MATERIAL] HUNTING GUIDES AND OUTFITTERS. --

8 A. Effective April 1, 1997, it is unlawful to be a
9 hunting guide or outfitter in New Mexico without being registered,
10 except for a private landowner or his authorized agent who outfits
11 or guides pursuant to a landowner permit issued by the department
12 of game and fish for the landowner's property or for the
13 landowner's shared private and public unit.

14 B. The state game commission shall adopt regulations by
15 September 1, 1997 to govern the granting of non-interim
16 registration, permits and certificates to hunting guides and
17 outfitters and to regulate the operations and professional conduct
18 of registered hunting guides and outfitters. Regulations shall be
19 adopted in accordance with the following procedures and standards:

20 (1) the commission shall establish dates and
21 locations for a public hearing and provide reasonable prior public
22 notice of a hearing. A public hearing shall be held at a place
23 within any quadrant of the state affected by the proposed
24 regulation when the commission determines there is substantial
25 public interest in holding a hearing in that quadrant;

1 (2) a hearing shall be held within six months of the
2 date a proposed regulation is issued;

3 (3) notice of a hearing shall:

4 (a) include the date, time and location of the
5 hearing;

6 (b) include a statement of the recommended
7 action;

8 (c) include an indication of the location and
9 availability of the public file on the regulation;

10 (d) indicate where and by what date written and
11 oral comments and testimony may be received; and

12 (e) specify that the public record shall remain
13 open for comments for thirty days after the date of the final
14 hearing; and

15 (4) the commission shall make its decision and take
16 action based upon relevant and reliable evidence.

17 C. No person shall be allowed to work as a registered
18 hunting guide or outfitter in New Mexico:

19 (1) without being registered by the state game
20 commission;

21 (2) if the person has had a guide or outfitter
22 license, registration, permit or certificate revoked in another
23 state;

24 (3) if the person has had a guide or outfitter
25 license, registration, permit or certificate suspended in another

Underscored material = new
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1 state and it has not been reinstated; or

2 (4) if the person has been convicted of a felony.

3 D. The state game commission shall develop a point system
4 for the suspension or revocation of a guide or outfitter
5 registration. The point system shall be similar to the point
6 system that governs individual hunting and fishing license
7 privileges.

8 E. To be granted a registration to be a guide, an
9 applicant shall, in addition to any other reasonable criteria
10 adopted by the state game commission, and except as provided for
11 persons granted an interim registration:

12 (1) be at least eighteen years of age;

13 (2) pass a written or oral examination approved by
14 the department of game and fish at a date and time approved by the
15 department; and

16 (3) be endorsed on his application by a New Mexico
17 registered or interim registered outfitter.

18 F. A registered or interim registered guide shall work
19 only under the supervision of a New Mexico registered or interim
20 registered outfitter and in an area designated by the registered or
21 interim registered outfitter.

22 G. The department of game and fish may provide a
23 registration for a temporary emergency guide, provided the
24 registration is limited to a maximum seven-day period and is
25 granted only in emergency circumstances as determined by the

1 department. The fee for a temporary emergency guide registration
2 is ten dollars (\$10.00).

3 H. To be granted a registration to be an outfitter, an
4 applicant shall, in addition to any other reasonable criteria
5 adopted by the state game commission, and except as provided for
6 persons granted an interim registration:

7 (1) be at least twenty-one years of age;

8 (2) have operated as a New Mexico registered guide
9 for at least three years or have been granted an interim
10 outfitter's registration;

11 (3) not be a convicted felon or have a history of
12 violation of federal or state game and fish laws or regulations or
13 federal or state guide or outfitter licensing or registration laws
14 or regulations;

15 (4) pass a written or oral examination approved by
16 the department of game and fish at a date and time determined by
17 the department; and

18 (5) be endorsed by a registered outfitter.

19 I. A registered outfitter shall:

20 (1) provide proof of commercial liability insurance
21 of at least five hundred thousand dollars (\$500,000);

22 (2) responsibly supervise each registered guide
23 working under his direction;

24 (3) provide a written contract for outfitting
25 services, signed by the registered outfitter and identifying the

Underscored material = new
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1 outfitter's registration number, to each nonresident who seeks to
2 use, and before the nonresident applies for, a license granted from
3 a special drawing for a hunt on public lands pursuant to the
4 provisions of Section 17-3-16 NMSA 1978;

5 (4) register with the taxation and revenue
6 department and provide proof of that registration to the department
7 of game and fish; and

8 (5) provide at least one registered guide or
9 outfitter for every four or fewer nonresident hunters who are
10 granted a license, pursuant to an application listing the
11 outfitter's registration number, from a special drawing for a hunt
12 on public lands pursuant to the provisions of Section 17-3-16 NMSA
13 1978.

14 J. The department of game and fish shall provide to the
15 taxation and revenue department a copy of each outfitter
16 registration that is granted.

17 K. No person shall be allowed to charge a processing or
18 other fee to obtain for a nonresident a license that is granted
19 from a special drawing for a hunt on public lands pursuant to the
20 provisions of Section 17-3-16 NMSA 1978, unless the person who
21 obtains the license is a registered New Mexico guide or outfitter
22 who physically accompanies the nonresident hunter on the hunt.

23 L. The department of game and fish shall develop by
24 September 1, 1996 a point system to provide preferences for the use
25 of registered outfitters who are New Mexico residents. The point

1 system shall include a progressive preference based upon the total
2 number of years of guiding or outfitting operations in New Mexico.

3 M A New Mexico resident registered outfitter shall be
4 defined by the state game commission in accordance with regulations
5 it adopts. The regulations shall require at a minimum that a
6 resident registered outfitter shall maintain a residence and
7 business address in New Mexico and derive at least fifty percent of
8 his guiding or outfitting income from guiding or outfitting
9 services provided in New Mexico, as determined by gross receipts or
10 corporate or individual income tax returns for the immediately
11 preceding three years. The registration applicant may voluntarily
12 provide copies of the necessary tax records, or the taxation and
13 revenue department shall assist the commission as needed to make
14 this determination. Tax records shall be confidential.

15 N. The department of game and fish shall maintain for
16 public distribution a list of New Mexico registered outfitters.

17 O. The annual registration fee for a registered guide in
18 New Mexico is fifty dollars (\$50.00) for a resident and one hundred
19 dollars (\$100) for a nonresident.

20 P. The annual registration fee to be a registered
21 outfitter in New Mexico is five hundred dollars (\$500) for a
22 resident and five thousand dollars (\$5,000) for a nonresident.

23 Q. Annual registration fees for guides and outfitters
24 shall be deposited in the game protection fund.

25 R. The state game commission shall adopt by September 1,

Underscored material = new
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1 1996 interim regulations, consistent to the greatest extent
2 practicable with the provisions of this section, to provide for the
3 granting of interim registrations to guides and outfitters. The
4 commission shall issue interim registrations prior to mailing
5 applications for 1997 licensed hunts to persons who qualify for
6 interim registration and submit applications to the department of
7 game and fish by November 1, 1996.

8 S. A person adversely affected by an action, other than a
9 regulation, taken pursuant to the provisions of this section,
10 including the denial, suspension or revocation of a registration,
11 license, permit or certificate, may seek review of the action
12 pursuant to the provisions of the Uniform Licensing Act.

13 T. A person adversely affected by a regulation adopted by
14 the state game commission pursuant to this section may appeal to
15 the court of appeals. All appeals shall be made upon the record at
16 the hearing and shall be taken to the court of appeals within
17 thirty days following the date of the action. The date of the
18 action shall be the date of the filing of the regulation by the
19 commission, pursuant to the provisions of the State Rules Act.

20 U. Upon appeal, the court of appeals shall set aside a
21 regulation only if it is found to be:

- 22 (1) arbitrary, capricious or an abuse of discretion;
23 (2) not supported by substantial evidence in the
24 record; or
25 (3) otherwise not in accordance with law.

1 V. After a hearing and a showing of good cause by the
2 appellant, a stay of a regulation being appealed may be granted:

3 (1) by the state game commission; or

4 (2) by the court of appeals if the state game
5 commission denies a stay or fails to act upon an application for a
6 stay within sixty days after receipt of the application.

7 W. The appellant shall pay all costs for any appeal found
8 to be frivolous by the court of appeals. "

9 Section 6. DELAYED REPEAL. --Sections 1 and 3 through 5 of
10 this act are repealed effective June 30, 1999.

11 Section 7. ACT NOT SEVERABLE. --If any part or application of
12 this act is held invalid, the remainder or its application to other
13 situations or persons shall likewise be invalid. The provisions of
14 this act are not severable.

15 Section 8. EFFECTIVE DATE. --

16 A. The effective date of the provisions of Sections 1 and
17 3 through 5 of this act is July 1, 1996.

18 B. The effective date of the provisions of Section 2 of
19 this act is June 30, 1999.

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**State of New Mexico
House of Representatives**

**FORTY- SECOND LEGISLATURE
SECOND SESSION, 1996**

February 14, 1996

Mr. Speaker:

Your AGRICULTURE AND WATER RESOURCES COMMITTEE, to
whom has been referred

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
SENATE BILL 193

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

G. X. McSherry, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

HAGC/ SB193a

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: None

Absent: None

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