

AN ACT

RELATING TO WILDLIFE; PROVIDING PROTECTION FOR AMPHIBIANS AND REPTILES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 17-1-14 NMSA 1978 (being Laws 1921, Chapter 35, Section 7, as amended) is amended to read:

"17-1-14. GENERAL POWERS AND DUTIES OF STATE GAME COMMISSION--GAME PROTECTION FUND.--

A. The state game commission shall have general control over the collection and disbursement of all money collected or received under the state laws for the protection and propagation of game and fish, which money shall be paid over to the state treasurer to the credit of the game protection fund, and the fund, including all earned income therefrom, shall not be transferred to another fund. Chapter 17 NMSA 1978 shall be guaranty to the person who pays for hunting and fishing licenses and permits that the money in that fund shall not be used for any purpose other than as provided in Chapter 17 NMSA 1978. The state game commission shall have authority:

(1) to establish and, through the director of the department of game and fish, to operate fish hatcheries for the purpose of stocking public waters of the

state and to furnish fish fry and fingerlings to stock private waters, receipts from such sources to go into the game protection fund;

(2) to declare closed seasons in any specified locality and on any species of game or fish threatened with undue depletion from any cause;

(3) to establish game refuges for the purpose of providing safe sanctuaries in which game may breed and replenish adjacent hunting ranges, it being the purpose of this provision to establish small refuges rather than large preserves, or to close large areas to hunting;

(4) to purchase lands for game refuges where suitable public lands do not exist, to purchase lands for fish hatcheries and to purchase lands to be maintained perpetually as public hunting grounds, particularly lands suitable for waterfowl hunting, all such lands to be paid for from the game protection fund;

(5) to receive by gift or bequest, in the name and on behalf of the state, lands suitable for game refuges, hunting grounds, fish hatcheries or for any other purpose necessary to carry out the provisions of Chapter 17 NMSA 1978;

(6) to apply for and accept any state, federal or private funds, grants or donations from any source for game and fish programs and projects;

(7) to designate certain areas as rest grounds for migratory birds, in which hunting shall be forbidden at all times or at such times as the state game commission shall provide, it being the purpose of this provision not to interfere unduly with the hunting of waterfowl but to provide havens in which they can rest and feed without molestation;

(8) to close any public stream or lake or portion thereof to fishing when such action is necessary to protect a recently stocked water, to protect spawning waters or to prevent undue depletion of the fish;

(9) to propagate, capture, purchase, transport or sell any species of game or fish needed for restocking any lands or streams of the state;

(10) after reasonable notice and hearing, to suspend or revoke any license or permit issued pursuant to the provisions of Chapter 17 NMSA 1978 and withhold license privileges for a definite period not to exceed three years from any person procuring a license through misrepresentation, violating any provisions of Chapter 17 NMSA 1978 or hunting without a proper license;

(11) to adopt rules establishing procedures that provide reasonable notice and a hearing before the state game commission for the suspension, revocation or withholding of license privileges of any person charged with violating

the provisions of Chapter 17 NMSA 1978, subject to such judicial review as may be provided by law;

(12) to conduct studies of programs for the management of endangered and nongame species of wildlife;

(13) to establish licenses, permits and certificates not otherwise provided for in Section 17-3-13 NMSA 1978 and to charge and collect just and reasonable fees for them; provided the fees shall not exceed the costs of administration associated with the licenses, permits or certificates; and

(14) to permit, regulate or prohibit the commercial taking or capturing of native, free-ranging amphibians or reptiles not specifically protected by law, except for rattlesnake roundups, collection of fish bait and lizard races.

B. The director of the department of game and fish shall exercise all the powers and duties conferred upon the state game and fish warden by all previous statutes now in force not in conflict with Chapter 17 NMSA 1978.

C. The state game commission shall have authority to prohibit all hunting in periods of extreme forest fire danger, at such times and places as may be necessary to reduce the danger of destructive forest fires.

D. The hunting, pursuing, capturing, killing or wounding of any game animals, birds or fish in or upon any

game refuge, rest ground or closed water or closed area or during any closed season established or proclaimed by the state game commission in accordance with the authority conferred in Chapter 17 NMSA 1978 constitutes a misdemeanor and shall be punishable as prescribed in Chapter 17 NMSA 1978. "

Section 2. A new Section 17-2-4.1 NMSA 1978 is enacted to read:

"17-2-4.1. AMPHIBIANS AND REPTILES--PROTECTED-- PERMITS--UNLAWFUL TAKING-- MISDEMEANOR-- PENALTIES. --

A. All species, except for those collected in rattlesnake roundups, for fish bait or for lizard races, of native, free-ranging amphibians and reptiles are hereby classified as protected nongame animals for commercial taking purposes. The commercial taking or capturing of native, free-ranging amphibians and reptiles is prohibited except by a permit issued by the state game commission.

B. The state game commission shall adopt rules necessary to administer Paragraph (14) of Subsection A of Section 17-1-14 NMSA 1978 and this section to assure that viable populations of native, free-ranging amphibians and reptiles are maintained in the state.

C. If the state game commission determines that it will offer permits to take or capture native, free-ranging amphibians or reptiles, the commission shall adopt a rule

listing protected native, free-ranging amphibians and reptiles that may be taken or captured after taking into consideration any criteria that can be shown to have an effect from commercial takings on the viability of the species population in the state.

D. Unlawful taking of a native, free-ranging amphibian or reptile consists of intentionally taking or capturing, for commercial purposes, a regulated native, free-ranging amphibian or reptile without a valid permit from the state game commission.

E. Amphibians and reptiles may be removed, captured or destroyed without a permit, by any person, in emergency situations involving an immediate threat to human life or private property.

F. Whoever commits unlawful taking of a native, free-ranging amphibian or reptile is guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) per occurrence and not more than one thousand dollars (\$1,000) per occurrence or be imprisoned for not more than one year or both.

G. As referred to in this section, "taking" means the act of seizing amphibians or reptiles for a commercial purpose."

Section 3. REPEAL. -- Sections 17-2-4 and 17-2-16 NMSA 1978 (being laws 1937, Chapter 217, Sections 1 and 2, as

amended) are repealed. \_\_\_\_\_