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HOUSE BILL 382

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

James R.J. Strickler

AN ACT

RELATING TO STATE PARKS; AMENDING AND ENACTING SECTIONS OF THE
NMSA 1978 TO PROVIDE FOR PENALTIES UNDER THE BOAT ACT;
PROVIDING FOR PENALTY ASSESSMENT MISDEMEANORS IN STATE PARKS.

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

SECTION 1. A new section of Chapter 16, Article 2 NMSA
1978 is enacted to read:

"[NEW MATERIAL] STATE PARKS DIVISION PENALTY ASSESSMENT
MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in Chapter 16, Article 2 NMSA 1978,
"penalty assessment misdemeanor" means a violation of any rule
of the state parks division of the energy, minerals and natural
resources department promulgated pursuant to Chapter 16,
Article 2 NMSA 1978. The penalty assessment for such violation
is seventy-five dollars (\$75.00).

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1 B. The term "penalty assessment misdemeanor" does
2 not include a violation that has caused or contributed to the
3 cause of an accident resulting in injury or death to a person
4 or disappearance of a person.

5 C. Unless a warning notice is given to an alleged
6 violator at the time that the alleged violator is charged with
7 a penalty assessment misdemeanor, the officer shall advise the
8 person of the option either to accept the penalty assessment
9 and pay it or to appear in court. If the person chooses to
10 accept the penalty assessment and pay it, the signature of the
11 alleged violator on the penalty assessment notice constitutes
12 an acknowledgment of guilt of the offense stated in the notice.

13 D. When an alleged violator of a penalty assessment
14 misdemeanor elects to accept a notice to appear in lieu of a
15 notice of penalty assessment, no fine imposed upon later
16 conviction shall exceed the penalty assessment established for
17 the particular penalty assessment misdemeanor.

18 E. Payment of any penalty assessment shall be
19 mailed to the state parks division within thirty days from the
20 date of the charge. Payments of penalty assessments are timely
21 if postmarked within thirty days from the date of the charge.
22 The state parks division may issue a receipt when a penalty
23 assessment is paid by currency, but checks tendered by the
24 violator upon which payment is received are sufficient receipt.
25 If the state parks division does not receive payment within

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1 thirty days from the date of the charge, the alleged violator
2 may be issued a notice to appear for the alleged violation.

3 F. Upon a second conviction, or acceptance of a
4 notice of penalty assessment, for violation of Section 66-12-7,
5 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or any rule of the
6 state parks division promulgated pursuant to those sections,
7 the penalty assessment shall be one hundred dollars (\$100).
8 Upon a third or subsequent conviction, or acceptance of a
9 notice of penalty assessment, the penalty assessment shall be
10 two hundred dollars (\$200).

11 G. The state parks division is authorized to refuse
12 to allow a person who fails to pay a penalty assessment or who
13 fails to appear after proper notice to enter a state park or to
14 sell the person permits or passes for use of a state park or
15 state park facility. The state parks division may allow the
16 person to enter a state park or purchase permits or passes for
17 use of a state park or state park facility upon payment of the
18 penalty assessment or appearance after proper notice."

19 SECTION 2. Section 66-12-23 NMSA 1978 (being Laws 1963,
20 Chapter 45, Section 9, as amended) is amended to read:

21 "66-12-23. PENALTIES.--

22 A. Except for penalty provisions provided in
23 Subsections B through H of this section, a person who violates
24 a provision of the Boat Act or a [~~regulation~~] rule of the state
25 parks division of the energy, minerals and natural resources

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1 department promulgated pursuant to that act is guilty of a
2 petty misdemeanor and shall be sentenced pursuant to the
3 provisions of Section 31-19-1 NMSA 1978.

4 B. As used in Chapter 66, Article 12 NMSA 1978,
5 "penalty assessment misdemeanor" means a violation of Section
6 66-12-7, 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or a rule of
7 the state parks division promulgated pursuant to those
8 sections. The penalty assessment for such violation is
9 seventy-five dollars (\$75.00).

10 C. The term "penalty assessment misdemeanor" does
11 not include a violation that has caused or contributed to the
12 cause of an accident resulting in injury or death to a person
13 or disappearance of a person.

14 D. Unless a warning notice is given to an alleged
15 violator at the time that the alleged violator is charged with
16 a penalty assessment misdemeanor, the officer shall advise the
17 person of the option either to accept the penalty assessment
18 and pay it or to appear in court. If the person chooses to
19 accept the penalty assessment and pay it, the signature of the
20 alleged violator on the penalty assessment notice constitutes
21 an acknowledgment of guilt of the offense stated in the notice.

22 E. When an alleged violator of a penalty assessment
23 misdemeanor elects to accept a notice to appear in lieu of a
24 notice of penalty assessment, no fine imposed upon later
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4 date of the charge. Payments of penalty assessments are timely
5 if postmarked within thirty days from the date of the charge.
6 The state parks division may issue a receipt when a penalty
7 assessment is paid by currency, but checks tendered by the
8 violator upon which payment is received are sufficient receipt.
9 If the state parks division does not receive payment within
10 thirty days from the date of the charge, the alleged violator
11 may be issued a notice to appear for the alleged violation.

12 G. Upon a second conviction, or acceptance of a
13 notice of penalty assessment, for violation of Section 66-12-7,
14 66-12-7.1, 66-12-10 or 66-12-14 NMSA 1978 or any rule of the
15 state parks division promulgated pursuant to those sections,
16 the penalty assessment shall be one hundred dollars (\$100).

17 Upon a third or subsequent conviction, or acceptance of a
18 notice of penalty assessment, the penalty assessment shall be
19 two hundred dollars (\$200).

20 H. The state parks division is authorized to refuse
21 to allow a person who fails to pay a penalty assessment or who
22 fails to appear after proper notice to enter a state park or to
23 sell the person permits or passes for use of a state park or
24 state park facility. The state parks division may allow the
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