

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 215

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

William P. Soules

AN ACT

RELATING TO ANIMAL DEPREDATIONS; NARROWING CONDITIONS FOR
LANDOWNER TAKING OR KILLING ANIMALS ON PRIVATE LAND.

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
birds and fowl, that presents an immediate threat to human life
[~~or an immediate threat of damage to property, including~~
~~crops~~]; provided, however, that the taking or killing is

underscored material = new
[bracketed material] = delete

1 reported to the department [~~of game and fish~~] within twenty-
2 four hours and before the removal of the carcass of the animal
3 killed, in accordance with [~~regulations~~] rules adopted by the
4 commission.

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

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

15 (1) provide a method for filing a complaint to
16 the department by the landowner or lessee, or employee of
17 either of them, of the existence of a depredation problem;

18 (2) provide for various departmental
19 interventions, depending upon the type of animal and
20 depredation;

21 (3) require the department to offer at least
22 three different interventions, if practical;

23 (4) require the department to respond to the
24 initial and any subsequent complaints within ten days with an
25 intervention response to the complaint and to carry out the

.198923.1

underscored material = new
[bracketed material] = delete

1 intervention, if agreed upon between the department and the
2 landowner, within five days of that agreement;

3 (5) permit the landowner or lessee to reject
4 for good cause the interventions offered by the department;

5 (6) require a landowner or lessee to
6 demonstrate that the property depredation is greater in value
7 than the value of any wildlife-related income or fee collected
8 by the landowner or lessee for permission to take or kill an
9 animal of the same species on the private property or portion
10 of the private property identified in the complaint as the
11 location where the depredation occurred; and

12 (7) permit the landowner, lessee or employee,
13 when interventions by the department have not been successful
14 and after one year from the date of the filing of the initial
15 complaint, to kill or take an animal believed responsible for
16 property depredation.

17 [~~G.~~] D. For purposes of this section:

18 (1) "commission" means the state game
19 commission;

20 (2) "department" means the department of game
21 and fish; and

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

24 SECTION 2. Section 17-2-10 NMSA 1978 (being Laws 1931,
25 Chapter 117, Section 7, as amended) is amended to read:

.198923.1

underscored material = new
[bracketed material] = delete

1 "17-2-10. VIOLATION OF GAME AND FISH LAWS OR
2 [~~REGULATIONS~~] RULES--PENALTIES.--

3 A. [~~Any~~] A person violating any of the provisions
4 of Chapter 17 NMSA 1978 or any [~~regulations~~] rules adopted by
5 the state game commission that relate to the time, extent,
6 means or manner that game animals, birds or fish may be hunted,
7 taken, captured, killed, possessed, sold, purchased or shipped
8 is guilty of a misdemeanor and upon conviction may be sentenced
9 to imprisonment in the county jail for a term not to exceed six
10 months. In addition, the person shall be sentenced to the
11 payment of a fine in accordance with the following schedule:

12 (1) for illegally taking, attempting to take,
13 killing, capturing or possessing of each deer, antelope,
14 javelina, bear or cougar during a closed season, a fine of four
15 hundred dollars (\$400);

16 (2) for illegally taking, attempting to take,
17 killing, capturing or possessing of each elk, bighorn sheep,
18 oryx, ibex or Barbary sheep, a fine of one thousand dollars
19 (\$1,000);

20 (3) for hunting big game without a proper and
21 valid license, lawfully procured, a fine of one hundred dollars
22 (\$100);

23 (4) for exceeding the bag limit of any big
24 game species, a fine of four hundred dollars (\$400);

25 (5) for attempting to exceed the bag limit of

underscored material = new
[bracketed material] = delete

1 any big game species by the hunting of any big game animal
2 after having tagged a similar big game species, a fine of two
3 hundred dollars (\$200);

4 (6) for signing a false statement to procure a
5 resident hunting or fishing license when the applicant is
6 residing in another state at the time of application for a
7 license, a fine of four hundred dollars (\$400);

8 (7) for using a hunting or fishing license
9 issued to another person, a fine of one hundred dollars (\$100);

10 (8) for a violation of Section 17-2-31 NMSA
11 1978, a fine of three hundred dollars (\$300);

12 (9) for selling, offering for sale, offering
13 to purchase or purchasing any big game animal, unless otherwise
14 provided by Chapter 17 NMSA 1978, a fine of one thousand
15 dollars (\$1,000);

16 (10) for illegally taking, attempting to take,
17 killing, capturing or possessing of each jaguar, a fine of two
18 thousand dollars (\$2,000); and

19 (11) for a violation of the provisions of
20 Subsection A of Section 17-2A-3 NMSA 1978, a fine of five
21 hundred dollars (\$500).

22 B. A person convicted a second time for violating
23 any of the provisions of Chapter 17 NMSA 1978 or any
24 [~~regulations~~] rules adopted by the state game commission that
25 relate to the time, extent, means or manner that game animals,

.198923.1

underscored material = new
~~[bracketed material] = delete~~

1 birds or fish may be hunted, taken, captured, killed,
2 possessed, sold, purchased or shipped is guilty of a
3 misdemeanor and upon conviction may be sentenced to
4 imprisonment in the county jail for a term of not more than
5 three hundred sixty-four days. In addition, the person shall
6 be sentenced to the payment of a fine in accordance with the
7 following schedule:

8 (1) for illegally taking, attempting to take,
9 killing, capturing or possessing of each deer, antelope,
10 javelina, bear or cougar during a closed season, a fine of six
11 hundred dollars (\$600);

12 (2) for illegally taking, attempting to take,
13 killing, capturing or possessing of each elk, bighorn sheep,
14 oryx, ibex or Barbary sheep, a fine of one thousand five
15 hundred dollars (\$1,500);

16 (3) for hunting big game without a proper and
17 valid license, lawfully procured, a fine of four hundred
18 dollars (\$400);

19 (4) for exceeding the bag limit of any big
20 game species, a fine of six hundred dollars (\$600);

21 (5) for attempting to exceed the bag limit of
22 any big game species by the hunting of any big game animal
23 after having tagged a similar big game species, a fine of six
24 hundred dollars (\$600);

25 (6) for signing a false statement to procure a

.198923.1

underscored material = new
[bracketed material] = delete

1 resident hunting or fishing license when the applicant is
2 residing in another state at the time of application for a
3 license, a fine of six hundred dollars (\$600);

4 (7) for using a hunting or fishing license
5 issued to another person, a fine of two hundred fifty dollars
6 (\$250);

7 (8) for a violation of Section 17-2-31 NMSA
8 1978, a fine of five hundred dollars (\$500);

9 (9) for selling, offering for sale, offering
10 to purchase or purchasing any big game animal, unless otherwise
11 provided by Chapter 17 NMSA 1978, a fine of one thousand five
12 hundred dollars (\$1,500);

13 (10) for illegally taking, attempting to take,
14 killing, capturing or possessing of each jaguar, a fine of four
15 thousand dollars (\$4,000); and

16 (11) for a violation of the provisions of
17 Subsection A of Section 17-2A-3 NMSA 1978, a fine of one
18 thousand dollars (\$1,000).

19 C. Notwithstanding the provisions of
20 Section 31-18-13 NMSA 1978, a person convicted a third or
21 subsequent time for violating any of the provisions of Chapter
22 17 NMSA 1978 or any [~~regulations~~] rules adopted by the state
23 game commission that relate to the time, extent, means or
24 manner that game animals, birds or fish may be hunted, taken,
25 captured, killed, possessed, sold, purchased or shipped is

.198923.1

underscored material = new
~~[bracketed material] = delete~~

1 guilty of a misdemeanor and upon conviction may be sentenced to
2 imprisonment in the county jail for a term of not less than
3 ninety days, which shall not be suspended or deferred, and not
4 more than three hundred sixty-four days. In addition, the
5 person shall be sentenced to the payment of a fine in
6 accordance with the following schedule:

7 (1) for illegally taking, attempting to take,
8 killing, capturing or possessing of each deer, antelope,
9 javelina, bear or cougar during a closed season, a fine of one
10 thousand two hundred dollars (\$1,200);

11 (2) for illegally taking, attempting to take,
12 killing, capturing or possessing of each elk, bighorn sheep,
13 oryx, ibex or Barbary sheep, a fine of three thousand dollars
14 (\$3,000);

15 (3) for hunting big game without a proper and
16 valid license, lawfully procured, a fine of one thousand
17 dollars (\$1,000);

18 (4) for exceeding the bag limit of any big
19 game species, a fine of one thousand two hundred dollars
20 (\$1,200);

21 (5) for attempting to exceed the bag limit of
22 any big game species by the hunting of any big game animal
23 after having tagged a similar big game species, a fine of one
24 thousand dollars (\$1,000);

25 (6) for signing a false statement to procure a

.198923.1

underscored material = new
[bracketed material] = delete

1 resident hunting or fishing license when the applicant is
2 residing in another state at the time of application for a
3 license, a fine of one thousand two hundred dollars (\$1,200);

4 (7) for using a hunting or fishing license
5 issued to another person, a fine of one thousand dollars
6 (\$1,000);

7 (8) for a violation of Section 17-2-31 NMSA
8 1978, a fine of one thousand dollars (\$1,000);

9 (9) for selling, offering for sale, offering
10 to purchase or purchasing any big game animal, unless otherwise
11 provided by Chapter 17 NMSA 1978, a fine of three thousand
12 dollars (\$3,000);

13 (10) for illegally taking, attempting to take,
14 killing, capturing or possessing of each jaguar, a fine of six
15 thousand dollars (\$6,000); and

16 (11) for a violation of the provisions of
17 Subsection A of Section 17-2A-3 NMSA 1978, a fine of two
18 thousand dollars (\$2,000).

19 D. ~~Any~~ A person who is convicted of a violation
20 of any ~~regulations~~ rules adopted by the state game commission
21 that relate to the time, extent, means or manner that game
22 animals, birds or fish may be hunted, taken, captured, killed,
23 possessed, sold, purchased or shipped or of a violation of any
24 of the provisions of Chapter 17 NMSA 1978, for which a
25 punishment is not set forth under this section, shall be fined

.198923.1

underscored material = new
[bracketed material] = delete

1 not less than fifty dollars (\$50.00) or more than five hundred
2 dollars (\$500) or imprisoned not more than six months, or both.

3 E. The provisions of this section shall not be
4 interpreted to prevent, constrain or penalize a Native American
5 for engaging in activities for religious purposes, as provided
6 in Section 17-2-14 or 17-2-41 NMSA 1978.

7 F. The provisions of this section shall not apply
8 to a landowner or lessee, or employee of either of them, who
9 kills an animal on private land in which [~~they have~~] the
10 landowner or lessee has an ownership or leasehold interest,
11 that is threatening human life or damaging or destroying
12 property, including crops; provided, however, that the killing
13 is reported to the department of game and fish within twenty-
14 four hours and before the removal of the carcass of the animal
15 killed; and provided further that all actions authorized in
16 this subsection are carried out according to [~~regulations~~]
17 rules of the department."