

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 366

**54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

AN ACT

RELATING TO WILDLIFE; ENACTING THE WILDLIFE PROTECTION AND  
PUBLIC SAFETY ACT; PROVIDING FOR RESTRICTIONS ON THE USE OF  
TRAPS, SNARES AND POISONS; PROVIDING PENALTIES; IMPOSING CIVIL  
LIABILITY.

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

SECTION 1. A new Section 17-9-1 NMSA 1978 is enacted to  
read:

"17-9-1. [NEW MATERIAL] SHORT TITLE.--Chapter 17, Article  
9 NMSA 1978 may be cited as the "Wildlife Protection and Public  
Safety Act"."

SECTION 2. A new Section 17-9-2 NMSA 1978 is enacted to  
read:

"17-9-2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Wildlife Protection and Public Safety Act:

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underscored material = new  
[bracketed material] = delete

1           A. "bona fide scientific research" means an  
2 investigation using commonly accepted scientific techniques or  
3 the scientific method of comparing effects with outcomes  
4 experienced by a control group and that is not being conducted  
5 for commercial gain from the sale of animal parts and that is  
6 conducted by employees or contractors of the department, the  
7 United States fish and wildlife service or other government  
8 agencies, nongovernmental organizations, educational  
9 institutions or individuals who are affiliated with educational  
10 institutions conducting investigations and who have applied for  
11 and received a scientific collection permit from the  
12 department;

13           B. "cage trap" means a trap that captures a live  
14 animal but does not grip an animal's body or body part and is  
15 not intended to kill the animal, including a live trap, a cage  
16 or box trap, a colony trap, a net and a suitcase-type live  
17 beaver trap;

18           C. "department" means the department of game and  
19 fish;

20           D. "depredation trapping" means the act of setting  
21 traps, snares or poisons on public land to reduce or prevent  
22 damage caused by wildlife to property or waterways, including  
23 growing, harvested and stored crops and livestock;

24           E. "domestic animal" means any animal that is bred  
25 for and is typically subject to human control;

1           F. "ecosystem management" means actions that are  
2 necessary to maintain or increase the long-term sustainability  
3 and integrity of an entire system of living wildlife and their  
4 environment, including the restoration and conservation of  
5 wildlife populations and habitat, wildlife relocation, medical  
6 treatment of wildlife and the protection of threatened or  
7 endangered species;

8           G. "feral animal" means a domestic animal existing  
9 in an untamed state outside captivity or domestication and not  
10 under human control;

11           H. "government entity" means a local, state or  
12 federal government body or agency, a political subdivision of  
13 the state or an employee, agent or representative of the body,  
14 agency or political subdivision when acting within the scope of  
15 its governmental duties, but does not include an Indian nation,  
16 tribe or pueblo;

17           I. "leghold trap" means a spring-actuated device,  
18 either padded or unpadded, designed to capture an animal by the  
19 foot, leg or other limb, including a steel-jawed leghold trap,  
20 a padded-jaw leghold trap, a foot-hold trap, an egg trap, a  
21 duffer trap and all other similar traps;

22           J. "lethal body-gripping trap" means a rotating jaw  
23 trap designed to capture an animal by the body that is intended  
24 to fatally crush or otherwise kill the animal and includes  
25 conibear traps and all other similar traps;

.213796.2

1           K. "public land" means land owned by a government  
2 entity, but does not include physical structures or land  
3 belonging to or held in trust for an Indian nation, tribe or  
4 pueblo;

5           L. "snare" means a wire or cable with a single  
6 closing device, often with a noose, with or without stops, that  
7 is used to capture, strangle or otherwise entangle an animal,  
8 but does not include use of a catch pole, leash or tether  
9 lawfully used by a person to temporarily restrain or relocate  
10 an animal;

11           M. "trap" includes a leghold trap, lethal body-  
12 gripping trap or cage trap;

13           N. "wildlife" means a member of a vertebrate  
14 species that is native to or found in New Mexico that is not  
15 under the direct control of a human or in captivity, but does  
16 not include a feral or escaped domestic animal; and

17           O. "wildlife poison" means a substance or mixture  
18 of substances applied in a manner intended to kill wildlife."

19           **SECTION 3.** A new Section 17-9-3 NMSA 1978 is enacted to  
20 read:

21           "17-9-3. [NEW MATERIAL] PROHIBITIONS ON PUBLIC LAND.--It  
22 is a violation of the Wildlife Protection and Public Safety Act  
23 for a person or government entity to use a trap, snare or  
24 wildlife poison on public land except as provided in Section  
25 17-9-4 NMSA 1978."

1           SECTION 4. A new Section 17-9-4 NMSA 1978 is enacted to  
2 read:

3           "17-9-4. [NEW MATERIAL] EXCEPTIONS.--

4           A. The provisions of the Wildlife Protection and  
5 Public Safety Act do not apply to:

6                   (1) any land or property that is not defined  
7 as public land pursuant to the Wildlife Protection and Public  
8 Safety Act;

9                   (2) the taking of wildlife with firearms,  
10 fishing equipment, archery equipment, falconry equipment or  
11 other implements in hand as authorized by law;

12                   (3) the control of mice, rats, pack rats,  
13 gophers, prairie dogs, moles, voles or rock squirrels;

14                   (4) the taking of birds or fish;

15                   (5) a government entity acting in the course  
16 of its official duties to prevent or mitigate actual threats to  
17 human health and safety;

18                   (6) the department, the United States fish and  
19 wildlife service or a conservancy district of the state or its  
20 employee, agent or representative acting in the course of its  
21 official duties related to ecosystem management;

22                   (7) bona fide scientific research;

23                   (8) depredation trapping by:

24                           (a) a designated agent of the department  
25 using cage traps; and

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~~[bracketed material]~~ = delete

1 (b) the department; provided that the  
2 department shall not use wildlife poisons, lethal body-gripping  
3 traps or snares designed to cause strangulation;

4 (9) the use of cage traps by an owner or the  
5 owner's agent of property, crops or livestock that are lawfully  
6 situated on public land for the lawful capture of offending  
7 wildlife, feral animals or domestic animals to abate damages  
8 caused to property, crops or livestock; provided that:

9 (a) once the damage has been abated, use  
10 of the cage trap shall cease; and

11 (b) any captured wildlife is disposed of  
12 in accordance with rules established by the department;

13 (10) the use of cage traps:

14 (a) by an owner of a domestic animal to  
15 recover that animal;

16 (b) to engage in a trap-neuter-return  
17 program for feral animals; or

18 (c) by an animal control agency, animal  
19 shelter or animal welfare organization to capture feral or  
20 domestic animals; or

21 (11) enrolled members of a federally  
22 recognized Indian nation, tribe or pueblo when trapping is  
23 conducted solely for religious or ceremonial purposes.

24 B. Nothing in this section shall be construed to  
25 allow recreational or commercial trapping on public land."

1           SECTION 5. A new Section 17-9-5 NMSA 1978 is enacted to  
2 read:

3           "17-9-5. [NEW MATERIAL] PENALTIES.--

4           A. A person who violates the Wildlife Protection  
5 and Public Safety Act is guilty of a petty misdemeanor. Every  
6 prohibited use of a trap, snare or wildlife poison shall be  
7 prosecuted as a single unit of prosecution for each trap, snare  
8 or wildlife poison used.

9           B. Any penalties under this section shall be  
10 cumulative to any other available penalties at law.

11           C. In addition to other penalties, upon conviction,  
12 the court may consider appropriate restitution to a state  
13 agency that incurs costs in enforcing the Wildlife Protection  
14 and Public Safety Act."

15           SECTION 6. A new Section 17-9-6 NMSA 1978 is enacted to  
16 read:

17           "17-9-6. [NEW MATERIAL] CIVIL LIABILITY.--A person who is  
18 convicted of a violation of the Wildlife Protection and Public  
19 Safety Act shall be strictly liable in a civil action for  
20 damages related to the conduct for which the person was  
21 convicted. If a violation results in the death of a domestic  
22 animal, the court may award up to three times actual damages to  
23 the party complaining of the violation."

24           SECTION 7. EFFECTIVE DATE.--The effective date of the  
25 provisions of this act is July 1, 2019.

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