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HOUSE BILL 128

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Alonzo Baldonado

AN ACT

RELATING TO GAME AND FISH; AMENDING SECTIONS OF CHAPTER 17 NMSA
1978 TO PROVIDE STRICTER PENALTIES FOR MAJOR VIOLATIONS AND A
PENALTY ASSESSMENT OPTION FOR A MINOR VIOLATION OF HUNTING AND
FISHING INFRACTIONS.

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

SECTION 1. Section 17-2-7 NMSA 1978 (being Laws 1931,
Chapter 117, Section 8, as amended) is amended to read:

"17-2-7. UNLAWFUL HUNTING OR FISHING.--

A. Except as permitted by regulations adopted by
the state game commission or as otherwise allowed by law, it is
unlawful to:

- (1) hunt, take, capture, kill or attempt to
take, capture or kill, at any time or in any manner, any game
animal, game bird or game fish in the state; or

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1 (2) possess, offer for sale, sell, offer to
2 purchase or purchase in the state all or any part of any game
3 animal, game bird or game fish.

4 B. Notwithstanding any other law, the owner of
5 domestic livestock in this state or [~~his~~] the owner's regular
6 employee may hunt, take, capture or kill any cougar or bear
7 [~~which~~] that has killed domestic livestock. The owner of
8 livestock or [~~his~~] the owner's regular employee who takes
9 action under this provision [~~will~~] shall report this action to
10 the department of game and fish, [~~who will~~] which shall verify
11 the necessity of the action taken.

12 C. Violation of this section [~~is a misdemeanor and~~]
13 shall be punished as provided in Section 17-2-10 NMSA 1978.

14 D. The provisions of this section shall not be
15 deemed to prohibit the possession of game animals, birds or
16 fish taken legally in any other jurisdiction."

17 SECTION 2. Section 17-2-8 NMSA 1978 (being Laws 1977,
18 Chapter 70, Section 1) is amended to read:

19 "17-2-8. UNLAWFUL TAKING OF BIG GAME AND WASTE OF GAME.--

20 A. It is unlawful for any person:

21 [~~A. who hunts or fishes and takes any game mammal~~
22 ~~designated in Paragraphs (2), (3) or (4) of Subsection A of~~
23 ~~Section 53-2-3 NMSA 1953, any game bird or any game fish to~~
24 ~~fail to transport the edible portions of the meat obtained to~~
25 ~~his home for human consumption or to provide for the human~~

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1 ~~consumption thereof under any commission regulations pertaining~~
2 ~~to exportation, transportation and donation of game; or~~

3 ~~B. who wounds or may have wounded any game mammal~~
4 ~~designated in Paragraphs (2), (3) or (4) of Subsection A of~~
5 ~~Section 53-2-3 NMSA 1953 to fail to go to the place where the~~
6 ~~mammal sustained or may have sustained the wound and make a~~
7 ~~reasonable attempt to track the mammal and reduce it to~~
8 ~~possession]~~

9 (1) to take or kill a bighorn sheep, ibex,
10 oryx, Barbary sheep, elk, deer or pronghorn antelope outside of
11 the legal season or without a valid license, which taking or
12 killing results in waste of the animal. Waste of the animal
13 consists of removing from the animal only the head, antlers or
14 horns or leaving any of the four quarters, backstraps or
15 tenderloins of the carcass to waste;

16 (2) who hunts or fishes and takes any game
17 mammal designated in Paragraph (2), (3) or (4) of Subsection A
18 of Section 17-2-3 NMSA 1978, any game bird or any game fish to
19 fail to transport the edible portions of the meat obtained to
20 the person's home for human consumption or to provide for the
21 human consumption thereof under any state game commission rules
22 pertaining to exportation, transportation and donation of game;
23 or

24 (3) who wounds or may have wounded any game
25 mammal designated in Paragraph (2), (3) or (4) of Subsection A

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1 of Section 17-2-3 NMSA 1978 to fail to go to the place where
2 the mammal sustained or might have sustained the wound and make
3 a reasonable attempt to track the mammal and reduce it to
4 possession.

5 B. Violation of Paragraph (1) of Subsection A of
6 this section is a fourth degree felony pursuant to Section
7 31-18-15 NMSA 1978, and violation of Paragraph (2) or (3) of
8 Subsection A of this section is a misdemeanor pursuant to
9 Section 31-19-1 NMSA 1978."

10 SECTION 3. Section 17-2-10 NMSA 1978 (being Laws 1931,
11 Chapter 117, Section 7, as amended) is amended to read:

12 "17-2-10. VIOLATION OF GAME AND FISH LAWS OR
13 [~~REGULATIONS~~] RULES--PENALTIES.--

14 A. [~~Any~~] A person violating any of the provisions
15 of Chapter 17 NMSA 1978, except for Section 17-2-8 NMSA 1978,
16 or any [~~regulations~~] rules adopted by the state game commission
17 that relate to the time, extent, means or manner that game
18 animals, birds or fish may be hunted, taken, captured, killed,
19 possessed, sold, purchased or shipped is guilty of a
20 misdemeanor and upon conviction may be sentenced to
21 imprisonment in the county jail [~~for a term not to exceed six~~
22 ~~months~~] pursuant to Section 31-19-1 NMSA 1978. In addition,
23 the person shall be sentenced to the payment of a fine in
24 accordance with the following schedule:

25 (1) for illegally taking, attempting to take,

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1 killing, capturing or possessing of each deer, antelope,
2 javelina, bear or cougar during a closed season, a fine of four
3 hundred dollars (\$400);

4 (2) for illegally taking, attempting to take,
5 killing, capturing or possessing of each elk, bighorn sheep,
6 oryx, ibex or Barbary sheep, a fine of one thousand dollars
7 (\$1,000);

8 (3) for hunting big game without a proper and
9 valid license, lawfully procured, a fine of one hundred dollars
10 (\$100);

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

13 (5) for attempting to exceed the bag limit of
14 any big game species by the hunting of any big game animal
15 after having tagged a similar big game species, a fine of two
16 hundred dollars (\$200);

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

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

23 (8) for a violation of Section 17-2-31 NMSA
24 1978, a fine of three hundred dollars (\$300);

25 (9) for selling, offering for sale, offering

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1 to purchase or purchasing any big game animal, unless otherwise
2 provided by Chapter 17 NMSA 1978, a fine of one thousand
3 dollars (\$1,000);

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

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

10 B. A person convicted a second time for violating
11 any of the provisions of Chapter 17 NMSA 1978, except for
12 Section 17-2-8 NMSA 1978, or any [~~regulations~~] rules adopted by
13 the state game commission that relate to the time, extent,
14 means or manner that game animals, birds or fish may be hunted,
15 taken, captured, killed, possessed, sold, purchased or shipped
16 is guilty of a misdemeanor and upon conviction may be sentenced
17 to imprisonment in the county jail [~~for a term of not more than~~
18 ~~three hundred sixty-four days~~] pursuant to Section 31-19-1 NMSA
19 1978. In addition, the person shall be sentenced to the
20 payment of a fine in accordance with the following schedule:

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

25 (2) for illegally taking, attempting to take,

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1 killing, capturing or possessing of each elk, bighorn sheep,
2 oryx, ibex or Barbary sheep, a fine of one thousand five
3 hundred dollars (\$1,500);

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

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

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

13 (6) for signing a false statement to procure a
14 resident hunting or fishing license when the applicant is
15 residing in another state at the time of application for a
16 license, a fine of six hundred dollars (\$600);

17 (7) for using a hunting or fishing license
18 issued to another person, a fine of two hundred fifty dollars
19 (\$250);

20 (8) for a violation of Section 17-2-31 NMSA
21 1978, a fine of five hundred dollars (\$500);

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

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

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

7 C. Notwithstanding the provisions of Section
8 31-18-13 NMSA 1978, a person convicted a third or subsequent
9 time for violating any of the provisions of Chapter 17 NMSA
10 1978, except for Section 17-2-8 NMSA 1978, or any [~~regulations~~]
11 rules adopted by the state game commission that relate to the
12 time, extent, means or manner that game animals, birds or fish
13 may be hunted, taken, captured, killed, possessed, sold,
14 purchased or shipped is guilty of a misdemeanor and upon
15 conviction may be sentenced to imprisonment in the county jail
16 for a term of not less than ninety days, which shall not be
17 suspended or deferred, and not more than three hundred sixty-
18 four days. In addition, the person shall be sentenced to the
19 payment of a fine in accordance with the following schedule:

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

24 (2) for illegally taking, attempting to take,
25 killing, capturing or possessing of each elk, bighorn sheep,

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1 oryx, ibex or Barbary sheep, a fine of three thousand dollars
2 (\$3,000);

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

6 (4) for exceeding the bag limit of any big
7 game species, a fine of one thousand two hundred dollars
8 (\$1,200);

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

13 (6) for signing a false statement to procure a
14 resident hunting or fishing license when the applicant is
15 residing in another state at the time of application for a
16 license, a fine of one thousand two hundred dollars (\$1,200);

17 (7) for using a hunting or fishing license
18 issued to another person, a fine of one thousand dollars
19 (\$1,000);

20 (8) for a violation of Section 17-2-31 NMSA
21 1978, a fine of one thousand dollars (\$1,000);

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

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

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

7 D. ~~Any~~ A person who is convicted of a violation
8 of any ~~regulations~~ rules adopted by the state game commission
9 that relate to the time, extent, means or manner that game
10 animals, birds or fish may be hunted, taken, captured, killed,
11 possessed, sold, purchased or shipped or of a violation of any
12 of the provisions of Chapter 17 NMSA 1978, for which a
13 punishment is not set forth under this section, shall be fined
14 ~~[not less than fifty dollars (\$50.00) or more than five hundred~~
15 ~~dollars (\$500)]~~ or imprisoned ~~[not more than six months or~~
16 ~~both]~~ pursuant to Section 31-19-1 NMSA 1978.

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

21 F. The provisions of this section shall not apply
22 to a landowner or lessee, or employee of either of them, who
23 kills an animal on private land, in which they have an
24 ownership or leasehold interest, that is threatening human life
25 or damaging or destroying property, including crops; provided,

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1 however, that the killing is reported to the department of game
2 and fish within twenty-four hours and before the removal of the
3 carcass of the animal killed; and provided further that all
4 actions authorized in this subsection are carried out according
5 to [~~regulations~~] rules of the department."

6 SECTION 4. Section 17-2-10.1 NMSA 1978 (being Laws 1995,
7 Chapter 177, Section 1) is amended to read:

8 "17-2-10.1. GAME AND FISH PENALTY ASSESSMENT
9 MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

10 A. As used in Chapter 17 NMSA 1978, "penalty
11 assessment misdemeanor" means a violation of any of the
12 following listed sections of the NMSA 1978 for which the listed
13 penalty assessment is established:

14	COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
15	<u>Fishing, hunting or trapping</u>		
16	<u>without the proper stamp or</u>		
17	<u>validation as required by law</u>		
18	<u>or adopted by state game</u>		
19	<u>commission rule</u>	<u>17-2-7</u>	<u>\$ 50.00</u>
20	Fishing without a license	17-3-17	\$ 75.00
21	Hunting small game without		
22	a license	17-3-1	\$100.00
23	<u>Manner and method rule</u>		
24	<u>infraction contrary to adoption</u>		
25	<u>by state game commission rule</u>	<u>17-2-7</u>	<u>\$125.00.</u>

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

C. With the penalty assessment collected for each penalty assessment misdemeanor pursuant to this section, there shall be assessed and collected the cost of the appropriate license and validation that the violator failed to produce. Upon presentation of proof of payment of the penalty assessment, the director of the department of game and fish shall issue the appropriate license and validation."