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HOUSE BILL 174

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Mimi Stewart

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO ANIMALS; ENACTING THE WILDLIFE VIOLATOR COMPACT.

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

Section 1. SHORT TITLE. -- This act may be cited as the "Wildlife Violator Compact".

Section 2. ADOPTION AND TEXT OF COMPACT. --

A. The participating states find that:

(1) wildlife resources are managed in trust by the respective states for the benefit of all of their residents and visitors;

(2) the protection of the wildlife resources of a state is materially affected by the degree of compliance with its statutes, laws, ordinances and administrative rules relating to the management of those resources;

(3) the preservation, protection, management

1 and restoration of wildlife contributes immeasurably to the
2 aesthetic, recreational and economic aspects of the natural
3 resources of a state;

4 (4) wildlife resources are valuable without
5 regard to political boundaries; therefore, a person should be
6 required to comply with wildlife preservation, protection,
7 management and restoration laws, ordinances and administrative
8 rules of a participating state as a condition precedent to the
9 continuance or issuance of a license to hunt, fish, trap or
10 possess wildlife;

11 (5) violation of wildlife laws interferes
12 with the management of wildlife resources and may endanger the
13 safety of persons and property;

14 (6) the mobility of many wildlife violators
15 necessitates the maintenance of channels of communication
16 among the various states;

17 (7) usually, a person who is cited for a
18 wildlife violation in a state other than his home state:

19 (a) is required to post collateral or
20 bond to secure appearance for a trial at a later date;

21 (b) is taken directly into custody
22 until collateral or bond is posted; or

23 (c) is taken directly to court for an
24 immediate appearance;

25 (8) the purpose of the enforcement practices

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1 set forth in Paragraph (7) of this subsection is to ensure
2 compliance with the terms of a wildlife citation by the cited
3 person who, if permitted to continue on his way after
4 receiving the citation, could return to his home state and
5 disregard his duty under the terms of the citation;

6 (9) in most instances, a person receiving a
7 wildlife citation in his home state is permitted to accept the
8 citation from the wildlife officer at the scene of the
9 violation and immediately continue on his way after agreeing
10 or being instructed to comply with the terms of the citation;

11 (10) the practices described in Paragraph (7)
12 of this subsection cause unnecessary inconvenience and, at
13 times, hardship for a person who is unable to post collateral,
14 furnish a bond, stand trial or pay a fine at that time and is
15 therefore compelled to remain in custody until some
16 alternative arrangement is made; and

17 (11) the enforcement practices described in
18 Paragraph (7) of this subsection consume an undue amount of
19 enforcement time.

20 B. It is the policy of the participating states
21 to:

22 (1) promote compliance with the statutes,
23 laws, ordinances and administrative rules relating to the
24 management of wildlife resources in the respective states;

25 (2) recognize the suspension of wildlife

1 license privileges of a person whose license privileges have
2 been suspended by another participating state and treat the
3 suspension as if it had occurred in the home state;

4 (3) allow a person, except as provided in
5 Subsection B of Section 4 of the Wildlife Violator Compact, to
6 accept a citation and, without delay, proceed on his way,
7 whether or not the person is a resident of the state in which
8 the citation was issued; provided that the person's home state
9 is a participating state in the Wildlife Violator Compact;

10 (4) report to the appropriate participating
11 state, as provided in the compact manual, a conviction
12 recorded against a person whose home state was not the issuing
13 state;

14 (5) allow a home state to recognize and treat
15 convictions recorded against its residents, which convictions
16 occurred in another participating state, as though they had
17 occurred in the home state;

18 (6) cooperate to the fullest extent with
19 other participating states in enforcing compliance with the
20 terms of citations issued by one participating state to
21 residents of another participating state;

22 (7) maximize effective use of law enforcement
23 personnel and information; and

24 (8) assist court systems in the efficient
25 disposition of wildlife violations.

1 Section 3. DEFINITIONS. --As used in the Wildlife

2 Violator Compact:

3 A. "citation" means a summons, complaint, summons
4 and complaint, ticket, penalty assessment or other official
5 document issued to a person by a wildlife officer or other
6 peace officer for a wildlife violation, which contains an
7 order requiring the person to respond;

8 B. "collateral" means cash or other security
9 deposited to secure an appearance for trial in connection with
10 the issuance by a wildlife officer or other peace officer of a
11 citation;

12 C. "compliance" with respect to a citation means
13 the act of answering a citation through an appearance in a
14 court or tribunal or through the payment of fines, costs and
15 surcharges;

16 D. "conviction" means a conviction, including a
17 court conviction, for an offense related to the preservation,
18 protection, management or restoration of wildlife, that is
19 prohibited by state statute, law, ordinance or administrative
20 rule. "Conviction" also includes the forfeiture of bail, bond
21 or other security deposited to secure appearance by a person
22 charged with having committed the offense, the payment of a
23 penalty assessment, a plea of nolo contendere and the
24 imposition of a deferred or suspended sentence by the court;

25 E. "court" means a court of law, including a

1 magistrate court;

2 F. "home state" means the state of primary
3 residence of a person;

4 G. "issuing state" means the participating state
5 that issues a citation to the violator;

6 H. "license" means a license, permit or other
7 public document that conveys to a person to whom it was issued
8 the privilege of pursuing, possessing or taking wildlife
9 regulated by statute, law, ordinance or administrative rule of
10 a participating state;

11 I. "licensing authority" means the department or
12 division within each participating state that is authorized by
13 law to issue or approve licenses or permits to hunt, fish,
14 trap or possess wildlife;

15 J. "participating state" means a state that enacts
16 legislation to become a member of the Wildlife Violator
17 Compact;

18 K. "personal recognizance" means an agreement by a
19 person made at the time of issuance of a citation that the
20 person will comply with the terms of the citation;

21 L. "state" means a state, territory or possession
22 of the United States, the District of Columbia, the
23 Commonwealth of Puerto Rico, the provinces of Canada and other
24 countries;

25 M "suspension" means a revocation, denial or

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1 withdrawal of license privileges, including the privilege to
2 apply for, purchase or exercise the benefits conferred by a
3 license;

4 N. "wildlife" means species of animals, including
5 mammals, birds, fish, reptiles, amphibians, mollusks and
6 crustaceans, which are protected or otherwise regulated by
7 statute, law, ordinance or administrative rule in a
8 participating state. Species included in the definition of
9 "wildlife" vary from state to state and determination of
10 whether a species is "wildlife" for the purposes of the
11 Wildlife Violator Compact shall be based on local law;

12 O. "wildlife law" means a statute, law, ordinance
13 or administrative rule developed and enacted for the
14 management and use of wildlife resources;

15 P. "wildlife officer" means an individual
16 authorized by a participating state to issue a citation; and

17 Q. "wildlife violation" means a cited violation of
18 a statute, law, ordinance or administrative rule developed and
19 enacted for the management and use of wildlife resources.

20 Section 4. PROCEDURES FOR ISSUING STATE CITATIONS. --

21 A. When issuing a citation for a wildlife
22 violation, a wildlife officer shall issue a citation to a
23 person whose home state is another participating state in the
24 same manner as if the person were a resident of the issuing
25 state and shall not require the person to post collateral to

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1 secure appearance, subject to the exceptions set forth in
2 Subsection B of this section; provided that the wildlife
3 officer receives the personal recognizance of the person that
4 he will comply with the terms of the citation.

5 B. Personal recognizance is acceptable:

6 (1) if not prohibited by local law or the
7 compact manual; and

8 (2) if the violator provides adequate proof
9 of identification to the wildlife officer.

10 C. Upon conviction or failure of a person to
11 comply with the terms of a citation, the appropriate official
12 shall report the conviction or failure to comply to the
13 licensing authority of the issuing state. The report shall be
14 made in accordance with procedures specified by the issuing
15 state and shall contain information as specified in the
16 compact manual as minimum requirements for effective
17 processing by the home state.

18 D. Upon receipt of the report of a conviction or
19 noncompliance pursuant to Subsection C of this section, the
20 licensing authority of the issuing state shall transmit to the
21 licensing authority of the home state of the violator the
22 information in the form and with the content as prescribed in
23 the compact manual.

24 Section 5. PROCEDURE FOR HOME STATE. --

25 A. Upon receipt of a report from the licensing

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1 authority of an issuing state reporting the failure of a
2 person to comply with the terms of a citation, the licensing
3 authority of the home state shall:

4 (1) notify the person;

5 (2) initiate a suspension action in
6 accordance with the home state's suspension procedures; and

7 (3) suspend the person's license privileges
8 until satisfactory evidence of compliance with the terms of
9 the citation has been furnished by the issuing state to the
10 home state licensing authority.

11 B. Due process safeguards shall be accorded to
12 alleged violators.

13 C. Upon receipt of a report of conviction from the
14 licensing authority of the issuing state, the licensing
15 authority of the home state shall enter the conviction as
16 though it occurred in the home state for the purposes of the
17 suspension of license privileges.

18 D. The licensing authority of the home state
19 shall:

20 (1) maintain a record of actions taken; and

21 (2) make reports to issuing states as
22 provided in the compact manual.

23 Section 6. RECIPROCAL RECOGNITION OF SUSPENSION. --

24 A. A participating state shall recognize the
25 suspension of license privileges of a person by another

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1 participating state as though the violation resulting in the
2 suspension on:

- 3 (1) had occurred in the home state; and
4 (2) could have been the basis of the
5 suspension of license privileges in the home state.

6 B. A participating state shall communicate
7 suspension information to other participating states in the
8 form and with the content as contained in the compact manual.

9 Section 7. APPLICABILITY OF OTHER LAWS. -- Except as
10 expressly required by provisions of the Wildlife Violator
11 Compact, nothing herein shall be construed to affect the right
12 of a participating state to apply its laws relating to license
13 privileges to a person or circumstance or to invalidate or
14 prevent an agreement or other cooperative arrangement between
15 a participating state and a nonparticipating state concerning
16 wildlife law enforcement.

17 Section 8. COMPACT ADMINISTRATOR PROCEDURES. --

18 A. A board of compact administrators is
19 established to:

- 20 (1) administer the provisions of this
21 compact; and
22 (2) serve as a governing body for the
23 resolution of all matters relating to the operation of the
24 Wildlife Violator Compact.

25 B. The board shall be composed of one

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1 representative, to be known as the "compact administrator",
2 from each of the participating states.

3 C. A compact administrator shall be appointed by
4 the head of the licensing authority of each participating
5 state and shall serve and be subject to removal in accordance
6 with the laws of the state he represents.

7 D. A compact administrator may provide for the
8 discharge of his duties and the performance of his functions
9 by an alternate.

10 E. An alternate shall not be entitled to serve
11 unless written notification of his identity has been given to
12 the board of compact administrators.

13 F. Each member of the board of compact
14 administrators shall be entitled to one vote.

15 G. An action of the board of compact
16 administrators shall not be binding unless taken at a meeting
17 at which a majority of the total number of the board's votes
18 are cast in favor thereof.

19 H. Action by the board of compact administrators
20 shall be taken only at a meeting at which a majority of the
21 participating states are represented.

22 I. The board of compact administrators shall elect
23 annually from its membership a chairman and vice chairman.

24 J. The board of compact administrators shall adopt
25 bylaws not inconsistent with the provisions of the Wildlife

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1 Violator Compact or the laws of a participating state for the
2 conduct of its business and shall have the power to amend and
3 rescind its bylaws.

4 K. The board of compact administrators may accept
5 for its purposes and functions under the Wildlife Violator
6 Compact donations and grants of money, equipment, supplies,
7 materials and services, conditional or otherwise, from any
8 state, the United States or a governmental agency, and may
9 receive, use and dispose of the donations and grants.

10 L. The board of compact administrators may
11 contract with, or accept services or personnel from, a
12 governmental or intergovernmental agency, individual, firm,
13 corporation or a private nonprofit organization or
14 institution.

15 M. The board of compact administrators shall
16 formulate all necessary procedures and develop uniform forms
17 and documents for administering the provisions of the Wildlife
18 Violator Compact. All procedures and forms adopted pursuant
19 to board action shall be contained in a compact manual.

20 Section 9. ENTRY INTO WILDLIFE VIOLATOR COMPACT AND
21 WITHDRAWAL. --

22 A. The Wildlife Violator Compact shall become
23 effective at the time it is adopted in substantially similar
24 form by two or more states.

25 B. Entry into the Wildlife Violator Compact shall

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1 be made by resolution of ratification by the authorized
2 officials of the applying state and submitted to the chairman
3 of the board of compact administrators.

4 C. The resolution shall substantially be in the
5 form and content as provided in the compact manual and shall
6 include the following:

7 (1) a citation of the authority from which
8 the state is empowered to become a party to the Wildlife
9 Violator Compact;

10 (2) an agreement of compliance with the terms
11 and provisions of this compact; and

12 (3) an agreement that compact entry is with
13 all states participating in the Wildlife Violator Compact and
14 with all additional states that legally become a party to the
15 Wildlife Violator Compact.

16 D. The effective date of entry shall be specified
17 by the applying state but shall not be less than sixty days
18 after notice has been given to each participating state that
19 the resolution from the applying state has been received:

20 (1) by the chairman of the board of compact
21 administrators; or

22 (2) by the secretary of the board of compact
23 administrators.

24 E. A participating state may withdraw from
25 participation in the Wildlife Violator Compact by official

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1 written notice to each participating state, but withdrawal
2 shall not become effective until ninety days after the notice
3 of withdrawal is given. No withdrawal of any state shall
4 affect the validity of the Wildlife Violator Compact as to the
5 remaining participating states.

6 Section 10. AMENDMENTS TO THE WILDLIFE VIOLATOR
7 COMPACT. --

8 A. The Wildlife Violator Compact may be amended
9 from time to time. Amendments shall be presented in
10 resolution form to the chairman of the board of compact
11 administrators and shall be initiated by one or more
12 participating states.

13 B. Adoption of an amendment shall require
14 endorsement by all participating states and shall become
15 effective thirty days after the date of the last endorsement.

16 C. Failure of a participating state to respond to
17 the chairman of the board of compact administrators within one
18 hundred twenty days after receipt of a proposed amendment
19 shall constitute endorsement thereof.

20 Section 11. LICENSING AUTHORITY-- ADMINISTRATOR--
21 EXPENSES. --

22 A. The department of game and fish is designated
23 as the licensing authority in New Mexico for the purposes of
24 the Wildlife Violator Compact.

25 B. The director of the department of game and fish

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1 shall furnish to the appropriate authorities of the
2 participating states any information or documents reasonably
3 necessary to facilitate the administration of the Wildlife
4 Violator Compact.

5 C. The compact administrator shall not be entitled
6 to any additional compensation for his service as the compact
7 administrator, but shall be entitled to expenses incurred in
8 connection with his duties and responsibilities as compact
9 administrator in the same manner as for expenses incurred in
10 connection with other duties or responsibilities of his office
11 or employment.

12 Section 12. CONSTRUCTION AND SEVERABILITY. --

13 A. The Wildlife Violator Compact shall be
14 liberally construed so as to effectuate the purposes stated
15 herein.

16 B. The provisions of the Wildlife Violator Compact
17 shall be severable and if a phrase, clause, sentence or
18 provision of that compact is declared to be contrary to the
19 constitution of a participating state or of the United States,
20 or the applicability thereof to a government, agency,
21 individual or circumstance is held invalid, the validity of
22 the remainder of the compact shall not be affected thereby.

23 C. If the Wildlife Violator Compact is held
24 contrary to the constitution of a participating state, the
25 compact shall remain in full force and effect as to the

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1 remaining states and in full force and effect as to the
2 participating state affected regarding all severable matters.

3 Section 13. EFFECTIVE DATE. -- The effective date of the
4 provisions of this act is July 1, 2001.