

HOUSE FLOOR SUBSTITUTE FOR  
HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE AGRICULTURE, WATER AND WILDLIFE COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 235

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

AN ACT

RELATING TO PUBLIC WATERS; AMENDING A SECTION OF CHAPTER 17  
NMSA 1978; DEFINING THE SCOPE OF EASEMENT CREATED BY  
CONSTITUTIONAL PROVISIONS REGARDING OWNERSHIP OF PUBLIC WATERS,  
BENEFICIAL USE OF PUBLIC WATERS AND THE RIGHT TO ACQUIRE, OWN  
AND PROTECT PRIVATE PROPERTY; PROVIDING FOR LAWFUL RECREATIONAL  
ACCESS TO PUBLIC WATERS.

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

**SECTION 1.** Section 17-4-6 NMSA 1978 (being Laws 1912,  
Chapter 85, Section 10, as amended) is amended to read:

"17-4-6. HUNTING AND FISHING ON PRIVATE PROPERTY--  
POSTING--PENALTY.--

A. Whenever the owner or lessee desires to protect  
or propagate game birds, animals or fish within ~~his~~ the  
owner's or lessee's enclosure or pasture, ~~he~~ the owner or

.201242.1

underscored material = new  
[bracketed material] = delete

1     ~~lessee~~ shall publish notices in English and Spanish warning all  
 2     persons not to hunt or fish within the enclosure or pasture.  
 3     The notices shall be posted in at least six conspicuous places  
 4     on the premises and published for three consecutive weeks in a  
 5     newspaper of general circulation in the county where the  
 6     premises are situated. In the event a public road enters or  
 7     crosses the enclosure or pasture, an additional notice shall be  
 8     posted conspicuously within three hundred yards of the point  
 9     where each public road enters the posted property.

10           B. After the publication and posting, it is a  
 11     misdemeanor for any person to enter the premises for the  
 12     purpose of hunting or fishing or to kill or injure any bird,  
 13     animal or fish within the enclosure or pasture without  
 14     permission of the owner or lessee.

15           C. No person engaged in hunting, fishing, trapping,  
 16     camping, hiking, sightseeing, the operation of watercraft or  
 17     any other recreational use shall walk or wade onto private  
 18     property through non-navigable public water or access public  
 19     water via private property unless the private property owner or  
 20     lessee or person in control of private lands has expressly  
 21     consented in writing."

22           D. Nothing in this act shall be interpreted to affect or influence  
 23     whether a water is a navigable water or a water of the United States for  
 24     purposes of the federal Clean Water Act of 1977, 33 U.S.C. 1251 et seq.

25           SECTION 2. EFFECTIVE DATE.--The effective date of the  
 26     provisions of this act is July 1, 2015.