LEGISLATION NO: _0158-21__  SPONSOR: Edmund Yazzie


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DATE: July 27, 2021

TITLE OF RESOLUTION: AN ACT RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING 23 N.N.C. §§ 501, 502, 505-509 AND ENACTING 23 N.N.C. §§ 600 ET SEQ., CHAPTER 6, FISH AND WILDLIFE CIVIL ENFORCEMENT

PURPOSE: This resolution, if approved, will amend Title Twenty-Three of the Navajo Nation Code, Fish and Wildlife Civil Enforcement.

This written summary does not address recommended amendments as may be provided by the standing committee. The Office of Legislative Counsel requests each committee member to review the proposed resolution in detail.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- Third Year, 2021

INTRODUCED BY:

\[\text{Edmond Yazzie}^{\text{J}}\] (Prime Sponsor)

TRACKING NO. 0158-21

AN ACT

RELATING TO RESOURCES AND DEVELOPMENT, LAW AND ORDER, NAABIK'IYÁTI' COMMITTEES AND THE NAVAJO NATION COUNCIL; AMENDING 23 N.N.C. §§ 501, 502, 505-509 AND ENACTING 23 N.N.C. §§ 600 ET SEQ., CHAPTER 6, FISH AND WILDLIFE CIVIL ENFORCEMENT

BE IT ENACTED:

Section One. Authority

A. The Law and Order Committee is empowered to review and make recommendations to the Navajo Nation Council on proposed Navajo Nation Code amendments and enactments. 2 N.N.C. § 601 (B)(14).

B. The Resources and Development Committee has oversight authority over Navajo Nation land, environment and wildlife. 2 N.N.C. § 500 (C).

C. The Navajo Nation Council established the Naabik'íyáti' Committee as a Navajo Nation standing committee and as such proposed legislation that requires final action by the Navajo Nation Council shall be assigned to the Naabik'íyáti' Committee. 2 N.N.C. § 164 (A)(9).

D. The Navajo Nation Council must review and approve enactments or amendments of positive law. 2 N.N.C. § 164 (A).
Section Two. Findings

A. The purpose of the proposed amendments to Title 23 §§ 501 et seq. is:

1. To address violations of Navajo Nation Fish and Wildlife laws by Non-Navajo through Navajo Nation courts;
2. To create a civil violation for Navajo Nation tribal members;
3. To recognize Wildlife Conservation Officers as peace officers;
4. To restrict the use of ATVs and UTVs on Navajo Nation lands during hunting season;
5. To protect the wildlife on Navajo Nation Lands from unauthorized hunting;
6. To allow the Department of Fish and Wildlife to manage the wildlife population.

Section Three. Amending Title 23 of the Navajo Nation Code

The Navajo Nation hereby approves the following amendments to Title 23 of the Navajo Nation Code:

____________________

NAVAJO NATION CODE ANNOTATED
TITLE 23. CONSERVATION AND WILDLIFE
CHAPTER 5. REGULATIONS FISHING AND HUNTING

§ 501. Application of federal law

All hunting and fishing on lands subject to the jurisdiction of the Navajo Nation shall be conducted in conformity with applicable Navajo Nation and federal laws and regulations. Notwithstanding any other provision of law, it shall be permissible at any time for any Navajo tribal member to take any species in a ceremonial manner for use by a Navajo medicine man. This Section is not intended to apply to bald eagles, or to authorize hunting in violation of federal law.

§ 502. Navajo Nation permit requirements
All persons hunting, fishing or trapping on lands subject to the jurisdiction of the Navajo Nation shall have in their possession a proper Navajo Nation permit as set forth in the Navajo Nation Hunting and Trapping Regulations and Navajo Nation Fishing and Boating Regulations established by the Resources and Development Committee of the Navajo Nation Council. For purposes of this section, person shall mean either Indian or non-Indian.

§ 503. [Reserved]

§ 504. [Reserved]

§ 505. [Reserved] Restocking and management; federal and state cooperation
The restocking and proper management of fish and wildlife and full cooperation with the United States Fish and Wildlife Service and the respective state fish and game departments shall be encouraged.

§ 506. Revolving fund; Enterprise Fund establishment; expenditure; report

A. All permit fees and fines assessed by the Navajo Nation Courts for violation of these regulations and other similar collections shall be set up as a special revolving proprietary fund for use in management, protection and regulation of fish and wildlife resources. These funds may be expended by the Controller of the Navajo Nation upon the recommendations of the Resources and Development Committee and the Budget and Finance Committees of the Navajo Nation Council.

B. The Controller shall report annually on the status of the special revolving proprietary fund to the Navajo Nation Council during consideration of the Navajo Nation Budget and the ensuing fiscal year.
§ 507. [Reserved] Predator control—Generally

A. The control and eradication of predatory animals shall be the responsibility of the Resources Committee of the Navajo Nation Council. Such controls shall be exercised according to the wishes of the District Grazing Committees, local Grazing Committee members and/or family groups. Assistance on predator control matters may be secured from any available source.

B. Costs of control shall be borne by the stockmen or individuals requesting such assistance, unless funds are provided from other sources. Funds provided in 23 N.N.C. § 506 are not applicable for use in predator control work unless the Resources Committee of the Navajo Nation Council finds that such control is required as a measure to insure greater success in restocking game birds and animals in specified localities.

§ 508. [Reserved] United States Fish and Wildlife Service

A. The United States Fish and Wildlife Service is authorized to utilize all of the modern techniques and restricted materials normally used by them in conducting rodent and predator control work on Navajo Nation range areas; provided that prior approval is obtained from each District Grazing Committee as to the specific locations of control stations.

B. With the prior approval of District Grazing Committees, studies may be conducted to develop new and better predator and rodent control techniques.

§ 509. Violations

A. Any person hunting or fishing on lands subject to the jurisdiction of the Navajo Nation in violation of Navajo Nation or federal hunting and fishing laws or regulations shall be delivered to the appropriate Navajo Nation or federal authorities for prosecution.
B. Any person hunting or fishing on lands subject to the jurisdiction of the Navajo Nation in violation of Navajo Nation hunting and fishing laws or regulations shall be brought to trial before the District Courts of the Navajo Nation, which shall assess penalties under 17 N.N.C. § 500 et seq. of the Navajo Nation Code. Collections of fines for game violations shall be distinguished from regular Court fines pursuant to Resolution ACF-7-56 and shall be earmarked for purposes as provided in 23 N.N.C. § 506(A).

C. For purposes of this Section, person shall mean either Indian or non-Indian.

NAVAJO NATION CODE ANNOTATED
TITLE 23. CONSERVATION AND WILDLIFE
CHAPTER 6. FISH AND WILDLIFE CIVIL ENFORCEMENT

§ 600. Definitions

A. The "Fish and Wildlife Civil Code" shall mean all provisions within Title 23.

B. The following definitions are applicable to the Fish and Wildlife Civil Code:

1. Aircraft: Any contrivance used for flight in the air.

2. All-Terrain Vehicle: means an engine-driven device which has a net weight of 1000 pounds or less which has a width of 50 inches or less, traveling on three or more low pressure tires and having a seat designed to be straddled by the operator and handlebar-type steering control. A low pressure tire has a minimum width of 6 inches, is designed to be mounted on a rim with a maximum diameter of 12 inches, and is inflated with an operating pressure not to exceed 6 pound per square inch as recommended by the manufacturer.
3. Authorized Permittee: The person to whom a valid permit has been issued.

4. Bag Limit: The maximum, in number or amount, of wildlife which may be lawfully taken by any one person per day or per season, as defined by the regulations.

5. Bait: Anything used to lure or attract wildlife to a particular location, including through sight, odor, and/or sound.

6. Citation: Any summons, complaint, summons and complaint, ticket, penalty assessment or other official document issued to a person by a wildlife officer or other Wildlife Conservation Officer for a violation of this Act which contains an order requiring the person to respond.

7. Compliance: The act of answering a citation through an appearance in a court or tribunal, or through the payment of fines, costs and surcharges, if any.

8. Decoy Operation: A law enforcement function designed to capture hunters in the act of an illegal take of wildlife by using a device intended to mimic a form of wildlife.


10. Device: Any net, trap, snare, salt lick, scaffold, deadfall, pit, explosive, poison or stupefying substance, crossbow, firearm, bow and arrow, or other implement used for the take of wildlife. Device
does not include a raptor or any equipment used in the sport of falconry.

11. Endangered Species: Any species of fish or wildlife, whose prospect of survival or recruitment within the Navajo Nation are in jeopardy or are likely within the foreseeable future to become so, due to any of the following factors:

   a. The present or threatened destruction, modification or curtailment of its habitat;
   b. Overutilization for scientific, commercial or sporting purpose;
   c. The effect of disease or predation;
   4. Other natural or man-made factors affecting its prospects of survival or recruitment within the Navajo Nation; or
   5. Any combination of the foregoing factors. The term may also include any species or subspecies of fish or wildlife appearing in the United States list of endangered native and foreign fish and wildlife as set forth in Section 4 of the Endangered Species Act of 1973 as endangered or threatened species provided that the Resource and Development Committee of the Navajo Nation Council adopt such lists in whole or in part.

12. Exotic Species: Those species which are not historically native to the Navajo Nation, either as breeding or migratory species, but rather were directly or indirectly introduced by human influence.

13. Firearm: means any loaded or unloaded pistol, revolver, rifle, shotgun, or other weapon which will or is designed to or may readily be converted to expel a projectile by the action of an explosion, except that it does not include an antique firearm or a
firearm in permanently inoperable condition which is kept as a curio or museum
piece or for educational purpose.

14. Fur bearing animals: The following are fur-bearing animals:
   a. Bobcat (Lynx rufus);
   b. American Beaver (Castor canadensis);
   c. Northern Raccoon (Procyon lotor);
   d. Ringtail (Bassariscus astutus);
   e. Gray Fox (Urocyon cinereoargenteus);
   f. Red Fox (Vulpes vulpes);
   g. Muskrat (Ondatra zibethica);
   h. Long-tail Weasel (Mustela frenata);
   i. Striped Skunk (Mephitis mephitis);
   j. Western Spotted Skunk (Spilogale gracilis);
   k. American Badger (Taxidea taxus);
   l. Opossums (Didelphis virginiana); and
   m. Coyote (Canis latrans).

15. Guide: A Navajo tribal member who, for pay or other gain, aids or ______
   assists any person in the taking of wildlife.

16. Habitat: The location where a particular species of plant or animal ______
   lives and its surroundings, including the presence of particular ______
   environmental conditions surrounding an organism such as air, water, ______
   soil, mineral elements, moisture, temperature, and topography.

17. Intoxicated: Having a blood alcohol content that leads to a ______
   presumption of intoxication in accordance with 14 N.N.C. § 716; or ______
   being otherwise impaired by alcohol or any other intoxicating ______
   substance or narcotic as determined by failing a standard field ______
sobriety test or appearing to be intoxicated and refusing to submit to a
standard field sobriety test.

18. Importation or Introduction: The act of receiving, bringing, shipping
into, or otherwise causing to be brought into the Navajo Nation any
exotic species, or parts thereof, from a location outside the Navajo
Nation, without the approval of the Navajo Nation.

19. Invasive Species: Shall have the same meaning as Exotic Species.

20. License or Permit: Written permission for lawful taking within the Navajo
Nation, issued by the Department or an entity authorized by the Department or
applicable law.

21. Motorcycle: means every motor vehicle having a seat or
saddle for the use of a rider designed to travel on not more
than three wheels in contact with ground, excluding a tractor.

22. Navajo Nation Endangered Species List: A list of species and
subspecies of wildlife indigenous to the Navajo Nation which
are determined to be endangered within the Navajo Nation, as
recommended by the Navajo Nation Department of Fish and
Wildlife and approved by the Resources and Development
Committee of the Navajo Nation Council.

23. Peace Officer: means any person who is a law enforcement officer vested by
law with a duty to maintain public order or make arrest, whether that duty
extends to all offenses or is limited to specific classes of offenses or
offenders.
24. Possession: To have wildlife in one’s physical control. When possessing a species is done pursuant to a permit, the possession is lawful.

25. Possession Limit: The maximum number of wildlife which may be lawfully possessed at one time by a person. An individual may cumulatively possess two daily bag limits at one time, but no more.

26. Songbirds: Any bird whose principal food consists of insects, comprising all the species and varieties of such birds, represented by the several families of bluebirds, including but not limited to the western and mountain bluebirds, bobolinks, catbirds, chickadees, cuckoos, roadrunner, flickers, flycatchers, grosbeaks, hummingbirds, kinglets, martins, meadowlarks, nighthawks, nuthatches, orioles, robins, shrikes, swallows, swifts, tanagers, titmice, thrushes, vireos, warblers, waxwings, whippoorwills, woodpeckers, wrens, and all other perching birds which feed entirely or chiefly on insects.

27. Take, taking or taken: To harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or possess wildlife, plants, or parts thereof or to attempt to engage in any such conduct; may include significant habitat modification or degradation if it kills or injures wildlife by significantly impairing essential behavioral patterns including reproduction, feeding, or sheltering. To be a lawful take, a permit is necessary.

28. Transporting: To convey, move, carry, or ship, or cause the same, from one location to another, either by vehicle, horse, wagon, plane, boat, or other means of conveyance used in transporting such item.

29. Traps or trapping: To take wildlife in any manner except with a gun or other hand-held implement, such as with a padded-jaw leg-hold, steel-jawed leg-hold, leg-hold, snare, live traps, conibear traps, snares, dead-falls, cage traps.
or other devices designed to confine, hold, grasp, grip, clamp or crush an animal's body or body part(s).

30. Utility Terrain Vehicle: Recreational motor vehicle designed for and capable of travel over designated roads, traveling on four or more tires with a maximum tire width of twenty-seven inches, a maximum wheel cleat or lug of three-fourths of an inch, a minimum width of fifty inches but not exceeding seventy-four inches, a minimum weight of at least seven hundred pounds but not exceeding two thousand pounds, and a minimum wheelbase of sixty-one inches but not exceeding one hundred ten inches. It also means a recreational off-highway vehicle or ROV.

31. Watercraft: Any boat, sailboard or other floating device of rigid or inflatable construction designed to carry people on the water and that is propelled by machinery, oars, paddles, or wind action on a sail, except makeshift contrivances constructed by inner tubes or other floatable materials.

32. Wildlife: All wild species of animals and native plants, and parts thereof, including, but not limited to, mammals, birds, reptiles, amphibians, fish, invertebrates (including mollusks and crustaceans), including active nests, eggs, and seeds which are undomesticated and occur naturally in the wild. These species may include those hunted and collected and which are subject to protection or otherwise regulated by Navajo, federal or state statutes, laws, regulations and administrative rules.

33. Wildlife Conservation Officer: A special authority peace officer in the Department commissioned by the President of the Navajo Nation or in accordance with Navajo Nation peace officer standards.

34. Wildlife Conservation Fund (WCF): A Navajo Nation Fund that is a subsidiary fund of the Navajo Nation Department of Fish and Wildlife
Enterprise Fund. Funds deposited into this account are primarily generated from fines for violations against endangered species, as the Department sees fit.

§ 601. Scope and Enforcement

A. Application of the Fish and Wildlife Civil Code. The Fish and Wildlife Civil Code shall apply within the territorial jurisdiction of the Navajo Nation and to every person within the jurisdiction of the Navajo Nation, except it shall not apply to Wildlife Conservation Officers or employees of the Department who are engaged in official duties authorized by the Department, this Code or its regulations, or other applicable law.

B. Enforcement of this Title

This Title shall be enforced by all Navajo Nation peace officers, including Wildlife Conservation Officers.

C. Wildlife Conservation Officers

Wildlife Conservation Officers shall have the power of law enforcement officers and shall carry a Department issued weapon while enforcing wildlife laws under Title 23 and Title 17 and is commissioned by the President of the Navajo Nation or in accordance with Navajo Nation peace officer standards. Wildlife Conservation Officers:

1. May issue citations, investigate suspected violations of Navajo Nation or federal law, request and serve warrants, request and serve summons, and stop persons for the purpose of issuing a civil citation to any person who violates Navajo Nation or federal wildlife laws, statutes or regulations. Upon federal commission,
officers shall exercise the authorities to enforce federal laws, statutes, or regulations consistent with said commission:

2. May establish and operate decoy operations in order to detect and deter the illegal take of wildlife;

3. May establish road blocks or wildlife check stations at points along established roads for the purpose of ensuring compliance with Navajo Nation and federal wildlife laws, and for the collection of wildlife management data;

4. May stop any person who is taking, attempting to take, has taken or is in possession of any wildlife and/or is conveying, shipping or transporting such wildlife to validate that such wildlife was lawfully taken in accordance with Federal, State and/or Navajo Nation laws, statutes and regulations;

5. Upon reasonable suspicion of a violation or in accordance with a valid warrant, may open, enter, and examine all camps, wagons, vehicles, tents, packs, boxes, barrels, ice chests, packages, or other containers where he or she has reason to believe any wildlife including plants, game, or fish taken or held in violation of this Chapter may be found;

6. Shall seize any wildlife held in violation of this Chapter;

7. Shall seize any weapons, ammunition, traps, equipment, property, vehicles, off road vehicles, boats, aircraft, and any other property used to violate Navajo Nation’s wildlife laws, statutes, or regulations;

8. May investigate and enforce other criminal and civil laws only where the violation is related to violation of the wildlife laws where the Wildlife Conservation
Officer has a reasonable suspicion that such a law has been violated or where an emergency exists.

§ 602. Accomplice liability

A. Offense. A person may be charged with and convicted of an offense if he or she intentionally or knowingly solicits, counsels, command, facilitates, aids, agrees to aid or attempts to aid in its commission, although he or she did not commit the crime and although the principal who directly committed such offense has not been prosecuted or convicted, or has been convicted of a different offense.

B. Penalty. The penalty for Accomplice Liability shall be the same as the penalty for the underlying offense.

§ 603. Taking of wildlife without a valid permit

A. Offense. A person commits the civil offense of an unlawful taking of wildlife without a valid permit if he or she takes any wildlife without a valid permit.

B. Fine. Any person engaged in the taking of wildlife without a valid permit shall be fined as followed:

1. For the unlawful taking of game fish, a minimum fine of One Hundred Dollars ($100) but not to exceed one thousand dollars ($1,000) per fish.

2. For the unlawful taking of game birds, a minimum fine of two hundred dollars ($200), but not to exceed two thousand dollars ($2,000).

3. For the unlawful taking of big game animals, a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000) per big game animal.
4. For the unlawful taking of raptors, a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000) per raptor.

§ 604. Taking of wildlife out of season

A. Offense. A person commits the civil offense of the unlawful take of wildlife out of season if he or she takes any wildlife outside the designated season for that species.

B. Fine. Any person engaged in taking wildlife out of season shall pay a minimum fine of two hundred dollars ($200), but not to exceed five thousand dollars ($5,000).

§ 605. Taking of wildlife during non-hunting hours or a time of day not permitted by law

A. Offense. A person commits the civil offense of the unlawful taking of wildlife during non-hunting hours if he or she takes any wildlife during a time not permitted by law or regulation.

B. Fine. Any person engaged in the unlawful taking of wildlife during a time of day not permitted by law shall pay a minimum fine of two hundred dollars ($200), but not to exceed five thousand dollars ($5,000).

§ 606. Exceeding the number of wildlife permitted by law or regulation

A. Offense. A person commits the civil offense of exceeding the number of wildlife permitted by law or regulation if he or she exceeds any bag or possession limit.
B. Fine. Any person exceeding the number of wildlife permitted by law or regulation shall pay a minimum fine of two hundred dollars ($200), but not to exceed five thousand dollars ($5,000).

§ 607. Taking of wildlife in a location not permitted by law or regulation

A. Offense. A person commits the civil offense of the unlawful taking of wildlife in a location not permitted by law or regulation if he or she takes wildlife in an area not authorized by permit, a closed area, or in another area not designated for taking of wildlife.

B. Fine. Any person engaged in the unlawful taking of wildlife in a location not permitted by law or regulation shall pay a minimum fine of one hundred dollars ($100) but not to exceed one thousand dollars ($1,000).

§ 608. Taking of wildlife in a manner not permitted by law or regulation

A. Offense. A person commits the civil offense of the unlawful taking of wildlife in a manner not permitted by law or regulation by taking wildlife without a valid permit from the Department or United States Fish and Wildlife Service, if he or she takes wildlife in a manner inconsistent with federal or Navajo Nation law or regulation.

B. Fine. Any person engaged in the unlawful taking of wildlife in a manner not permitted by law or regulation shall pay a minimum fine of two hundred dollars ($200), but not to exceed five thousand dollars ($5,000).

§ 609. Unlawful possession of wildlife
A. Offense. A person commits the civil offense of the unlawful possession of wildlife if without lawful authority he or she possesses, trades or barters, offers for sale, sells, offers to purchase or purchases all or any part of any wildlife, or attempts any of the above.

B. Fine. Any person in unlawful possession of wildlife shall pay a fine as follows:

1. For the unlawful possession of game fish a minimum fine of one hundred dollars ($100) per fish, but not to exceed five thousand dollars ($5,000) per fish.

2. For the unlawful possession of game birds or song birds, a minimum fine of two hundred dollars ($200) per bird, but not to exceed five thousand dollars ($5,000) per bird.

3. For the unlawful possession of game animals and other wildlife not addressed in this section, a minimum fine of one hundred dollars ($100), but not to exceed five thousand dollars ($5,000) per animal, pursuant to the regulations.

4. For the unlawful possession of raptors, fined a minimum for each raptor as follows, but not to exceed five thousand dollars ($5,000) per raptor:

a. Eagle, Four Thousand Dollars ($4,000);

b. Raptor other than eagle, Two Thousand Dollars ($2,000).

§ 610. Unlawful taking of bald or golden eagle

A. Offense. A person commits the civil offense of unlawful take of Bald or Golden Eagles if without lawful authority he or she takes any Bald or Golden Eagles.
B. Fine. Any person engaged in the unlawful take Bald or Golden Eagles shall pay a minimum fine of four thousand dollars ($4,000), but not to exceed five thousand dollars ($5,000).

§ 611. Unlawful take of raptor other than an eagle

A. Offense. A person commits the civil offense of the unlawful taking of a raptor other than an eagle if without lawful authority he or she takes any raptor other than an eagle.

B. Fine. Any person who unlawfully takes a raptor other than an eagle shall pay a minimum fine of four hundred dollars ($400), but not to exceed five thousand dollars ($5,000).

§ 612. Unlawful taking of songbird

A. Offense. A person commits the civil offense of the unlawful taking of songbird if without lawful authority he or she takes any songbird.

B. Fine. Any person who unlawfully takes a songbird shall pay a minimum fine of one hundred dollars ($100), but not to exceed one thousand dollars ($1,000).

§ 613. Unlawful take, possession, or transporting of endangered species

A. Offense. Except as otherwise provided by law, it is a civil offense for any person to take, possess, transport, export, process, sell, or offer for sale, or ship any species or subspecies, or parts thereof, of wildlife appearing on any of the following lists:
1. The Navajo Nation Endangered Species List, as required by 17 N.N.C. §507, and as set forth by resolution of the Resources and Development Committee of the Navajo Nation Council:

2. The United States lists of endangered fish and other wildlife, as set forth in Section 4 of the Endangered Species Act of 1973, as may be amended from time to time.

B. Fine. Any person engaged in unlawful taking, possessing, or transporting an endangered species shall pay a minimum fine of two thousand five hundred dollars ($2,500) for each individual plant or animal, but not to exceed five thousand dollars ($5,000) for each individual plant or animal.

C. Permits. Any species or subspecies of wildlife appearing on any of the foregoing lists, transported into the Navajo Nation from a state of the United States and destined for a point beyond the Navajo Nation may be transported across the Navajo Nation without restriction in accordance with the terms of any Tribal, state, or federal permit.

§ 614. Unlawful taking of small game animal

A. Offense. A person commits the civil offense of the unlawful taking of small game animal if without lawful authority he or she takes any small game animal.

B. Fine. Any person who unlawfully takes a small game animal shall pay a minimum fine of two hundred dollars ($200), but not to exceed five thousand dollars ($5,000).
C. Civil Restitution. In addition to or in lieu of any civil fine assessed hereunder, the Department may require the violating party to pay the Department for the value of the wildlife taken and have such funds deposited into the WTPF.

D. Permits. The Director of the Department may issue permits to allow any person to take or possess any small game animal protected by this section. Permits shall be granted upon application and without charge for the following purposes:

1. Indian religious and ceremonial purposes;

2. Scientific purposes in accordance with the rules and regulations of the Resources and Development Committee of the Navajo Nation Council.

§ 615. Unlawful taking of fur-bearing animal

A. Offense. A person commits the civil offense of the unlawful taking of a fur-bearing animal if without lawful authority he or she takes any fur-bearing animal.

B. Fine. Any person who unlawfully takes a fur-bearing animal shall pay a minimum fine of two hundred dollars ($200), but not to exceed two thousand dollars ($2,000).

§ 616. Unlawful driving of wildlife

A. Offense. It is a civil offense for any person to drive or attempt to drive wildlife from any area where that person is not authorized to take said wildlife, whether from, onto or across Navajo Nation land.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed two thousand dollars ($2,000).
§ 617. Unlawful camping

A. Offense. It is a civil offense for a person to camp within one-half mile of any water hole containing water, excluding any lake, stream or river, or to camp in areas designated and posted as "no camping" or to camp in a designated fee area without paying.

B. Fine. Any person unlawfully camping pursuant to this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed two thousand dollars ($2,000).

§ 618. Use of a weapon while intoxicated

A. Offense. It is a civil offense for any person while taking or attempting to take wildlife, or while in any hunting area, to handle or discharge any weapon while intoxicated or while under the influence of any intoxicating substance or narcotic drugs.

B. Fine. Any person who uses a weapon while intoxicated shall pay a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000).

D. Permit Revocation. A person committing a civil offense pursuant to this section shall be subject to suspension/revocation of his/her hunting, guiding, trapping and fishing privileges for a period of:

1. First Offense: one year;
2. Second Offense: five years;

3. Third Offense: permanently.

D. Appeals. A final Department determination under this section shall be appealable to the Office of Hearing and Appeals.

§ 619. Interference with rights of hunters, trappers or fishermen

A. Offense. It is a civil offense for a person while in a hunting, trapping or fishing area to intentionally interfere with, prevent or disrupt the lawful take of wildlife by:

1. Harassing, driving or disturbing any wildlife;

2. Blocking, obstructing or impeding, or attempting to block, obstruct or impede, a person lawfully taking wildlife;

3. Erecting a barrier, or locking a gate, without the consent of the Navajo Nation with the intent to deny ingress to or egress from areas where wildlife may be lawfully taken;

4. Making or attempting to make a threat, assault or battery on a person lawfully taking wildlife;

5. Engaging in, or attempting to engage in, theft, vandalism or destruction of real or personal property, except where that person has a reasonable belief that the property has been abandoned or lost;
6. Disturbing or altering, or attempting to disturb or alter, the condition or authorized placement of real or personal property intended for use in the lawful taking of wildlife;

7. Making or attempting to make loud noises or gestures, set out or attempt to set out animal baits, scents or lures or human scent, use any other natural or artificial visual, aural, olfactory or physical stimuli, or engage in or attempt to engage in any other similar action or activity, in order to disturb, alarm, drive, attract or affect the behavior of wildlife or disturb, alarm, disrupt or annoy a person lawfully taking wildlife;

8. Interjecting oneself into the line of fire of a person lawfully attempting to take wildlife.

B. Fine. Any person unlawfully interfering with the rights of hunters, trappers or fishermen shall pay a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000).

C. Exceptions. The conduct declared unlawful in this section does not include or apply to:

1. Any incidental interference arising from lawful activity by public land users, including ranchers, miners or recreationists;

2. Landowners, permittees, lessees or their agents or contractors engaged in animal husbandry practices or agricultural operations.

§ 620. Big game killed by motor vehicle
A. Salvage Permits. Notwithstanding any other provision of this title, the carcass of a big game animal that has been killed as a result of an accidental collision with a motor vehicle on a maintained road may be possessed and transported by any individual who first obtains a big game salvage permit issued by a Wildlife Conservation Officer. A person may possess or transport the carcass or any part of the carcass of a big game animal killed as a result of an accidental collision with a motor vehicle only as provided by this section.

B. No Guarantee of Edibility. A permit issued under this section carries no representation or implication that any part of the carcass is edible. Neither the Wildlife Conservation Officer, the agency employing the Wildlife Conservation Officer nor the Department shall be liable with respect to any use made of the carcass.

C. Offense. A violation of this section constitutes unlawful possession of wildlife.

§ 621. Applying for or obtaining license or permit by fraud or misrepresentation; classification

A. Offense. It is a civil offense for a person to knowingly apply for, obtain, or assist another in applying for or obtaining, by fraud or misrepresentation, a license or permit to take wildlife.

B. Fine. Any person who commits the civil offense of applying for or obtaining a license or permit by fraud or misrepresentation shall pay a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000).

§ 622. Operation of an off-road vehicle, utility-terrain vehicle or snowmobile
A. Offense. It is a civil offense for any person to:

1. Use a utility-terrain vehicle or snowmobile on Navajo Nation lands, except as expressly authorized by a permit issued by the Department. This provision does not apply to permittees, lessees or their agents or contractors engaged in animal husbandry practices, agricultural operations or ranching;

2. Drive an off-road vehicle with reckless disregard for the safety of persons, property or wildlife.

C. Fine. Any person committing a civil offense under this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed one thousand dollars ($1,000).

§ 623. Shooting upon or across paved or graded roadways

A. Offense. It is a civil offense for any person to discharge any firearm or release any arrow upon or across any paved or graded roadway or within fifty feet of any paved or graded roadway.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed one thousand dollars ($1,000).

§ 624. Discharge of firearm within line of sight and one half mile of an occupied dwelling without written permission of the owner or occupant

A. Offense. It is a civil offense to discharge a firearm within line of sight and one half mile of any occupied dwelling or structure without written consent of the owner or occupant.
B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed one thousand dollars ($1,000).

§ 625. Taking wildlife with aid of motor vehicle

A. Offense. It is a civil offense for any person to take wildlife by the aid or use of any motor vehicle, unless such vehicle is a boat or floating device that is beached, resting, anchored, or fastened within or immediately alongside of any type of fixed hunting blind, or unless expressly authorized by a permit issued by the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of two hundred and fifty dollars ($250) per violation, but not to exceed five thousand dollars ($5,000).

§ 626. Taking wildlife with artificial light

A. Offense. It is a civil offense for a person to take wildlife with the aid or use of artificial light.

B. Fine. Any person who violates this section shall pay a minimum fine of two hundred and fifty dollars ($250) per violation, but not to exceed five thousand dollars ($5,000).

C. Exception. This section does not apply to Department employees conducting predator control.

§ 627. Hunting without hunter orange
A. Offense. It is a civil offense for a person to hunt without hunter orange where required by regulation.

B. Fine. Any person who violates this section shall pay a minimum fine of fifty dollars ($50) per violation, but not to exceed one thousand dollars ($1,000).

§ 628. Failure to identify owner of leg-hold trap

A. Offense. It is a civil offense for any person to place or set any leg-hold trap for the taking of wildlife unless he or she has identified each trap with either the name and address of the owner or a registration number that is registered with the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of fifty dollars ($50) per violation, but not to exceed two hundred and fifty dollars ($250).

§ 629. Waste of game fish or big game animal

A. Offense. It is a civil offense to:

1. Take any game fish or big game animal and fail to transport the edible portions of the meat obtained to his/her home for human consumption or to provide for the human consumption thereof except as authorized by regulations established by the Department;

2. Wound or suspect to have wounded any wildlife and fail to go to the place where the animal sustained or may have sustained the wound and make a reasonable attempt to track the animal and reduce it to possession.
B. Fine. Any person violating this section shall pay a minimum fine of two hundred dollars ($200), but not to exceed one thousand dollars ($1,000).

§ 630. Hunting, guiding, fishing or boating while intoxicated

A. Offense. It is a civil offense for any person to hunt, guide, fish or boat while intoxicated.

B. Fine. Any person violating this section shall pay a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000).

§ 631. Restrictions on watercraft

A. Offense. It is a civil offense for any person to operate any makeshift contrivances constructed of inner tubes or other floatable materials on waters of the Navajo Nation.

B. Fine. A person violating this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500) per violation.

§ 632. Guiding without a permit.

A. Offense. It is a civil offense to provide hunting or fishing guide services without a valid guide permit issued by the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed one thousand dollars ($1,000).

§ 633. Failure to comply with Guide requirements
A. Offense. It is a civil offense for any person who is providing hunting or fishing guide services to fail to comply with guide requirements and applicable regulations established by the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100) per violation, but not to exceed one thousand dollars ($1,000) per violation.

§ 634. Use of aircraft for taking wildlife

A. Offense. It is a civil offense to take wildlife from an airplane or other airborne vehicle or device.

B. Fine. Any person who violates this section shall pay a minimum fine of one thousand dollars ($1,000) per violation, but not to exceed five thousand dollars ($5,000) per violation.

C. Exception. Tribal and federal agencies may use aircraft to manage wildlife resources in the performance of their duties.

§ 635. Interference with a Wildlife Conservation Officer

A. Offense. It is a civil offense for any person to interfere with, obstruct, intimidate, or harass a Wildlife Conservation Officer in the lawful performance of his/her duty.

B. Fine. Any person who violates this section shall pay a minimum fine of two thousand five hundred dollars ($2,500) per violation, but not to exceed five thousand dollars ($5,000) per violation.
§ 636. Failure to stop at road blocks or game check station

A. Offense. It is a civil offense for any person returning from hunting, fishing, or trapping to fail to stop at a Department road block or game check station where a stop sign or check station sign or red or blue light is displayed.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed five hundred dollars ($500).

§ 637. Failure to tag game animal properly

A. Offense. It is a civil offense to fail to properly tag a big game animal with a carcass tag prior to moving or transporting the carcass in accordance with applicable regulations.

B. Fine. Any person violating this section shall pay a minimum fine of one hundred dollars ($100), but not to exceed one thousand dollars ($1,000).

§ 638. Carrying a loaded firearm in or on a motor vehicle

A. Offense. It is a civil offense to carry of a deadly weapon if he or she carries a loaded firearms or any other type of deadly weapon.

B. Exception: Subsection (A) of this Section shall not apply to any of the following:

1. To peace officers in the lawful discharge of their duties;
2. To person in a private motor vehicle or other means of conveyance, for lawful protection of the person’s or another person or property, while traveling and such
weapon is located in a closed trunk, luggage, or glove compartment of a motor
vehicle;

3. To a person in his or her residence, or on real property belonging to such person
as owner, lessee, tenant, or licensee;

4. To a person carrying or discharging a firearm as an integral part of any
traditional Navajo religious practice, ceremony, or service;

5. To person engaged in the hunting of game or predatory animals.

C. Fine. Any person who violates this section shall pay a minimum fine of two
hundred dollars ($200), but not to exceed two thousand dollars ($2,000).

§ 639. Failure to stop vehicle when ordered

A. Offense. It is a civil offense for any driver to fail to stop after receiving a visual
or audible stop signal from a Wildlife Conservation Officer.

B. Fine. Any person who violates this section shall pay a minimum fine of two
hundred dollars ($200), but not to exceed two thousand dollars ($2,000).

§ 640. Reckless operation of motor vehicle

A. Offense. It is a civil offense to recklessly operate a motor vehicle while taking
wildlife, or to operate a motor vehicle so as to endanger or harm a Wildlife
Conservation Officer in the conduct of his or her duties, or so as to endanger
or harm any other person while that person is taking wildlife.

B. Fine. Any person who violates this section shall pay a minimum fine of three
hundred dollars ($300), but not to exceed three thousand dollars ($3,000).
§ 641. Interfere with operation of vehicle, or to flee or elude a Wildlife Conservation Officer

A. Offense. It is a civil offense to interfere, or attempt to interfere with the operation of a Wildlife Conservation Officer’s vehicle, or to attempt to flee or elude a Wildlife Conservation Officer in the performance of his/her duties.

B. Fine. Any person violating this section shall pay a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000).

§ 642. Littering

A. Offense. It is a civil offense to throw, place, drop, abandon, or dispose of any litter or waste in an area designated for the taking of wildlife, unless such area is designated as a lawful waste disposal site, or unless otherwise authorized by applicable laws, regulations or permit.

B. Fine. Any person who violates this section shall pay a minimum fine of three hundred dollars ($300), not to exceed fifteen hundred dollars ($1,500). except that in lieu of said fine, the offender may serve not less than 40 hours picking up litter from a recreation area, lake or park on the Navajo Nation.

§ 643. Vandalism of Department property

A. Offense. It is a civil offense to deface, damage, or change the appearance of any Department-owned building, structure, sign or other Department property.

B. Fine. Any person who violates this section shall pay a minimum fine of two hundred dollars ($200), not to exceed five thousand dollars ($5,000).

§ 644. Transport of wildlife

A. Offense. It is a civil offense to intentionally, knowingly, recklessly, or negligently transport any wildlife or parts thereof without a permit or other written permission from the Department.
B. Fine. Any person violating this section shall pay a minimum fine of three hundred dollars ($300), but not to exceed fifteen hundred dollars ($1,500).

§ 645. Possession of live wildlife

A. Offense. It is a civil offense to intentionally, knowingly, recklessly, or negligently possess live wildlife without a federal permit or a permit issued by the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500).

§ 646. Importation of live wildlife into the Navajo Nation

A. Offense. It is a civil offense for any person to knowingly, intentionally, or recklessly import, possess, sell, exhibit, abandon, or release any live wildlife, native or non-native, or the eggs, seeds or progeny thereof onto the Navajo Nation, without first obtaining written approval from the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of one thousand dollars ($1,000), not to exceed five thousand dollars ($5,000).

§ 647. Baiting

A. Offense. It is civil offense for any person to take any wildlife with bait except as specifically authorized pursuant to regulations established by the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500).

C. Exceptions. This section does not apply to federal or Navajo Nation personnel acting within the scope of their official duties.

§ 648. Destroying, disturbing, or removing traps or trapped animals of another

A. Offense. It is a civil offense for any person to intentionally, knowingly, recklessly, or negligently destroy, disturb, or remove any trap or snare belonging to
another person or remove wildlife from a trap or snare belonging to another person without consent of the owner of the trap or snare.

B. Fine. Any person who violates this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500).

§ 649. Reckless operation of watercraft

A. Offense. It is a civil offense to operate watercraft in reckless disregard of the rights and safety of others, or at a speed or in a manner so as to endanger or be likely to endanger any person or property.

B. Fine. Any person who violates this section shall pay a minimum fine of two hundred fifty dollars ($250), but not to exceed five thousand dollars ($5,000), and shall attend a boat safety education training course authorized by the Department.

§ 650. Personal flotation device required

A. Offense. It is a civil offense to operate or be a passenger in a watercraft without the use of a personal flotation device (PFD) fastened to the body at all times, except as authorized by regulations established by the Department.

B. Fine. A person who violates this section shall pay a minimum fine of fifty dollars ($50), not to exceed one hundred fifty dollars ($150) per violation.

§ 651. Failure to secure infant/child passenger with personal flotation device

A. Offense. It is a civil offense for any parent, guardian, or custodian of an infant or child, fifteen years of age or younger, to fail to properly secure the child in a personal flotation device (PFD) when in a watercraft on Navajo Nation waters. The PFD shall comply with United States Coast Guard Standards.
B. Fine. A person who violates this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500) per violation.

§ 652. Operating a watercraft not equipped as required

A. Offense. It is a civil offense to operate a watercraft without the equipment required to meet United States Coast Guard Standards.

B. Fine. A person who violates this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500) per violation.

§ 653. Operating a watercraft with more persons or weight on board than the craft is rated or designed to safely carry

A. Offense. It is a civil offense to operate a watercraft with more persons or weight on board than the craft is rated or designed to safely carry.

B. Fine. A person who violates this section shall pay a minimum fine of one hundred dollars ($100), not to exceed five hundred dollars ($500) per violation.

§ 654. Depositing, discarding, dumping, or leaving fuel or oil or their containers in or near Navajo Nation waters

A. Offense. It is a civil offense to intentionally, knowingly, recklessly, or negligently deposit, discard, dump, or otherwise leave fuel, oil or waste in or near Navajo Nation waters.

B. Fine. A person who violates this section shall pay a minimum fine of five hundred dollars ($500), but not to exceed five thousand dollars ($5,000).

§ 655. Restrictions on motors
A. Offense. It is a civil offense for any person to operate a gas powered motor on any waters of the Navajo Nation in violation of regulations established by the Department.

B. Fine. A person who violates this section shall pay a minimum fine of fifty dollars ($50), not to exceed five hundred dollars ($500) per violation.

§ 656. Biological investigation/scientific collecting without permission

A. Offense. It is a civil offense to engage in a biological investigation or scientific collecting of wildlife without a valid Navajo Nation permit issued by the Department.

B. Fine. Any person who violates this section shall pay a minimum fine of two hundred dollars ($200) per investigation or per specimen, but not to exceed fifteen hundred dollars ($1,500) per investigation or per specimen.

§ 657. Civil forfeiture

A person committing a civil offense pursuant to this Chapter shall be subject to civil forfeiture of any wildlife found in his or her possession, and of any weapons, ammunition, traps, equipment, property, vehicles, off road vehicles, boats, aircraft and any other property used to violate this Chapter, or any other wildlife statute or regulation. The items are forfeited to the Department, and any such items may be kept, sold, or destroyed at the discretion of the Department, subject to applicable law. A civil forfeiture made pursuant to this Chapter is reviewable by the Window Rock District Court of the Navajo Nation.

§ 658. Failure to pay fine or restitution; penalty for failure to pay

A. Restitution. The court, in addition to or in lieu of the sentences, may require the offender to pay the Department for the value of the wildlife taken and have such funds deposited into the WCF. The court may also require restitution to include
materials and labor. For wildlife that were taken or wounded without a permit, the court may also order restitution to compensate the Department for rehabilitating, permanently housing and/or releasing such wildlife. Restitution can also include cost of removal or destruction of any unwanted wildlife species, native or non-native, imported into the Navajo Nation. These funds will be deposited into the WCF.

B. Penalty. Failure to pay a fine or restitution, and/or complete other requirements assessed pursuant to this Subchapter may subject a person to suspension or permanent revocation of that person’s hunting, trapping and/or fishing privileges on the Navajo Nation, as determined by the Department. A final Department determination shall be appealable to the Office of Hearing and Appeals.

§659. Assistance with permits for ceremonial, religious, and scientific purposes

A. The Director of the Department may issue permits without charge to any person for the following purposes:

1. Indian religious and ceremonial purposes;

2. Scientific purposes in accordance with the rules and regulations of the Resources and Development Committee of the Navajo Nation Council.

§ 660. Civil liability/restitution for unlawful taking or wounding wildlife: recovery of damages

A. The Department with the assistance of the Navajo Nation Department of Justice may bring a civil action on behalf of the Navajo Nation against any person unlawfully taking, wounding or killing, or unlawfully in possession of, any wildlife, or parts thereof, and seek recovery of civil damages, in addition to attorney’s fees and costs, in accordance with the regulations.
B. No verdict or judgment recovered by the Navajo Nation in such action shall be less than the sum fixed in this section. The minimum sum that the Navajo Nation may seek to recover as damages from a person pursuant to this section may be doubled for a second verdict or judgment and tripled for a third verdict or judgment. The action for damages may be joined with an action for possession, and recovery had for the possession as well as the damages.

C. The pendency or determination of an action for damages or payment of a judgment, or the pendency or determination of a criminal prosecution for the same taking, wounding, killing or possession, is not a bar to any other legal proceeding authorized by law, and does not affect any right of seizure or forfeiture under other applicable law.

D. All monies recovered pursuant to this section shall be placed in the Department’s WCF.

§ 661. Department authorized to adopt regulations for approval by the Resources and Development Committee or its successor

The Department is authorized to adopt regulations with approval of the Resources and Development Committee of the Navajo Nation Council, or its successor, for the purpose of implementing this Chapter, including, but not limited to:

A. Rules for revocation, suspension or denial of a license, permit, or other privilege to take wildlife on the Navajo Nation, based on one or more convictions or violations under the wildlife laws of Titles 17 and 23, conviction of a felony in any jurisdiction, ineligibility for the taking of wildlife in one or more state jurisdictions or by the federal government, or ineligibility as otherwise determined by the Navajo Nation Council. Revocations, suspensions or denials by the Department shall be
appear to the Office of Hearings and Appeals in accordance with 2 N.N.C. §§ 1051-1059:

B. A schedule amending the fines as set hereunder for violations of wildlife laws under Titles 17 and 23, upon approval by the Resources and Development Committee or its successor;

C. A schedule for restitution;

D. Reasonable requirements for eligibility for a license or permit or other privilege to take wildlife including but not limited to proof of successful completion of a hunter education course;

E. Permits for hunting or fishing guides or for any activity carried out for the purpose of assisting another in the taking of wildlife;

F. Exceptions to certain requirements of this Chapter in order to accommodate persons with special needs;

G. Rules for disposition of forfeited items.

SECTION FOUR. CODIFICATION

The provisions of the Act which amend or adopt new sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall incorporate such amended provisions in the next codification of the Navajo Nation Code.

SECTION FIVE. SAVINGS CLAUSE
Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court, the remainder of the Act shall remain the law of the Navajo Nation.

SECTION SIX. EFFECTIVE DATE

Amendments enacted herein shall be effective pursuant to 2 N.N.C. § 221(B).