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SENATE BILL 35

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

INTRODUCED BY

Mary Jane Garcia

AN ACT

**RELATING TO ANIMALS; REPEALING CERTAIN EXCEPTIONS IN THE
CRUELTY TO ANIMALS PROVISION.**

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

**Section 1. Section 30-18-1 NMSA 1978 (being Laws 1999,
Chapter 107, Section 1) is amended to read:**

**"30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO
ANIMALS--PENALTIES--EXCEPTIONS. --**

**A. As used in this section, "animal" does not
include insects or reptiles.**

[A.] B. Cruelty to animals consists of a person:

**(1) negligently mistreating, injuring,
killing without lawful justification or tormenting an animal;
or**

(2) abandoning or failing to provide

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1 necessary sustenance to an animal under that person's custody
2 or control.

3 ~~[B.]~~ C. As used in Subsection [A] B of this
4 section, "lawful justification" means:

5 (1) humanely destroying a sick or injured
6 animal; or

7 (2) protecting a person or animal from death
8 or injury due to an attack by another animal.

9 ~~[C.]~~ D. Whoever commits cruelty to animals is
10 guilty of a misdemeanor and shall be sentenced pursuant to the
11 provisions of Section 31-19-1 NMSA 1978. Upon a fourth or
12 subsequent conviction for committing cruelty to animals, the
13 offender is guilty of a fourth degree felony and shall be
14 sentenced pursuant to the provisions of Section 31-18-15 NMSA
15 1978.

16 ~~[D.]~~ E. Extreme cruelty to animals consists of a
17 person:

18 (1) intentionally or maliciously torturing,
19 mutilating, injuring or poisoning an animal; or

20 (2) maliciously killing an animal.

21 ~~[E.]~~ F. Whoever commits extreme cruelty to animals
22 is guilty of a fourth degree felony and shall be sentenced
23 pursuant to the provisions of Section 31-18-15 NMSA 1978.

24 ~~[F.]~~ G. The court may order a person convicted for
25 committing cruelty to animals to participate in an animal

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1 cruelty prevention program or an animal cruelty education
2 program. The court may also order a person convicted for
3 committing cruelty to animals or extreme cruelty to animals to
4 obtain psychological counseling for treatment of a mental
5 health disorder if, in the court's judgment, the mental health
6 disorder contributed to the commission of the criminal
7 offense. The offender shall bear the expense of participating
8 in an animal cruelty prevention program, animal cruelty
9 education program or psychological counseling ordered by the
10 court.

11 ~~[G.]~~ H. If a child is adjudicated of cruelty to
12 animals, the court shall order an assessment and any necessary
13 psychological counseling or treatment of the child.

14 ~~[H.]~~ I. The provisions of this section do not
15 apply to:

16 (1) fishing, hunting, falconry, taking and
17 trapping, as provided in Chapter 17 NMSA 1978;

18 (2) the practice of veterinary medicine, as
19 provided in Chapter 61, Article 14 NMSA 1978;

20 (3) rodent or pest control, as provided in
21 Chapter 77, Article 15 NMSA 1978;

22 (4) the treatment of livestock and other
23 animals used on farms and ranches for the production of food,
24 fiber or other agricultural products, when the treatment is in
25 accordance with commonly accepted agricultural animal

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1 husbandry practices;

2 (5) the use of commonly accepted Mexican and
3 American rodeo practices, unless otherwise prohibited by law;
4 or

5 (6) [~~research facilities, intermediate~~
6 ~~handlers, carriers and exhibitors licensed pursuant to the~~
7 ~~provisions of 7 U.S.C. Section 2136; or~~

8 (7)] other similar activities not otherwise
9 prohibited by law.

10 [~~I.~~] J. If there is a dispute as to what
11 constitutes commonly accepted agricultural animal husbandry
12 practices or commonly accepted rodeo practices, the New Mexico
13 livestock board shall hold a hearing to determine if the
14 practice in question is a commonly accepted agricultural
15 animal husbandry practice or commonly accepted rodeo practice.

16 [~~J.~~] K. The provisions of this section shall not
17 be interpreted to prohibit cockfighting in New Mexico. "