

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 126

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO LIVESTOCK; AMENDING SECTIONS OF THE NMSA 1978 TO
CHANGE THE DEFINITIONS OF "ANIMALS" AND "LIVESTOCK"; PROVIDING
PROCEDURES TO BE FOLLOWED WHEN WILD HORSES COME INTO THE
CUSTODY OF THE NEW MEXICO LIVESTOCK BOARD.

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

SECTION 1. Section 30-18-1.2 NMSA 1978 (being Laws 1999,
Chapter 107, Section 3, as amended) is amended to read:

"30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

A. If the court finds that a seized animal is not
being cruelly treated and that the animal's owner is able to
provide for the animal adequately, the court shall return the
animal to its owner.

B. If the court finds that a seized animal is being
cruelly treated or that the animal's owner is unable to provide

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1 for the animal adequately, the court shall hold a hearing to
2 determine the disposition of the animal.

3 C. An agent of the New Mexico livestock board, an
4 animal control agency operated by the state, a county or a
5 municipality or an animal shelter or other animal welfare
6 organization designated by an animal control agency or an
7 animal shelter, in the custody of which an animal that has been
8 cruelly treated has been placed may petition the court to
9 request that the animal's owner may be ordered to post security
10 with the court to indemnify the costs incurred to care and
11 provide for the seized animal pending the disposition of any
12 criminal charges of committing cruelty to animals pending
13 against the animal's owner.

14 D. The court shall determine the amount of security
15 while taking into consideration all of the circumstances of the
16 case, including the owner's ability to pay, and may conduct
17 periodic reviews of its order. If the posting of security is
18 ordered, the animal control agency, animal shelter or animal
19 welfare organization may, with permission of the court, draw
20 from the security to indemnify the costs incurred to care and
21 provide for the seized animal pending disposition of the
22 criminal charges.

23 E. If the owner of the animal does not post
24 security within fifteen days after the issuance of the order,
25 or if, after reasonable and diligent attempts the owner cannot

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1 be located, the animal may be deemed abandoned and relinquished
 2 to the animal control agency, animal shelter or animal welfare
 3 organization for adoption or humane destruction; provided that
 4 if the animal is livestock other than poultry associated with
 5 cockfighting, the animal may be sold pursuant to the procedures
 6 set forth in Section 77-18-2 NMSA 1978.

7 F. Nothing in this section shall prohibit an owner
 8 from voluntarily relinquishing an animal to an animal control
 9 agency or shelter in lieu of posting security. A voluntary
 10 relinquishment shall not preclude further prosecution of any
 11 criminal charges alleging that the owner has committed felony
 12 cruelty to animals.

13 G. Upon conviction, the court shall place the
 14 animal with an animal shelter or animal welfare organization
 15 for placement or for humane destruction.

16 H. As used in this section, "livestock" means all
 17 ~~[domestic or domesticated animals that are used or raised on a~~
 18 ~~farm or ranch and exotic animals in captivity and includes]~~
 19 horses, asses, mules, cattle, sheep, goats, swine, bison,
 20 poultry, ostriches, emus, rheas, camelids, ~~[and]~~ farmed
 21 cervidae ~~[but does not include canine or feline animals]~~ and
 22 exotic animals in captivity, including the carcasses thereof,
 23 but "livestock" does not include horses and asses, currently
 24 managed pursuant to the federal Wild Free-Roaming Horses and
 25 Burros Act, or "wild horses" as defined in Section 77-18-5 NMSA

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1 1978. "Livestock" does not include canine or feline animals or
2 feral hogs or species defined in Section 17-2-3 NMSA 1978,
3 except farmed cervidae."

4 SECTION 2. Section 77-2-1.1 NMSA 1978 (being Laws 1993,
5 Chapter 248, Section 2, as amended) is amended to read:

6 "77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

7 A. "animals" or "livestock" means all [~~domestic or~~
8 ~~domesticated animals that are used or raised on a farm or~~
9 ~~ranch, including the carcasses thereof, and exotic animals in~~
10 ~~captivity and includes~~] horses, asses, mules, cattle, sheep,
11 goats, swine, bison, poultry, ostriches, emus, rheas, camelids,
12 [and] farmed cervidae [~~upon any land in New Mexico. "Animals"~~
13 ~~or "livestock" does not include canine or feline animals~~] and
14 exotic animals in captivity upon any land in New Mexico,
15 including the carcasses thereof. "Livestock" does not include
16 horses and asses, currently managed pursuant to the federal
17 Wild Free-Roaming Horses and Burros Act, or "wild horses" as
18 defined in Section 77-18-5 NMSA 1978. "Animals" or "livestock"
19 does not include canine or feline animals, feral hogs or
20 species defined in Section 17-2-3 NMSA 1978, except farmed
21 cervidae;

22 B. "bill of sale" means an instrument in
23 substantially the form specified in The Livestock Code by which
24 the owner or the owner's authorized agent transfers to the
25 buyer the title to animals described in the bill of sale;

1 C. "bison" or "buffalo" means a bovine animal of
2 the species bison;

3 D. "board" means the New Mexico livestock board;

4 E. "bond" means cash or an insurance agreement from
5 a New Mexico licensed surety or insurance corporation pledging
6 surety for financial loss caused to another, including
7 certificate of deposit, letter of credit or other surety as may
8 be approved by the grain inspection, packers and stockyards
9 administration of the United States department of agriculture
10 or the board;

11 F. "brand" means a symbol or device in a form
12 approved by and recorded with the board as may be sufficient to
13 readily distinguish livestock should they become intermixed
14 with other livestock;

15 G. "brand inspector" means an inspector who is not
16 certified as a peace officer;

17 H. "carcasses" means dead or dressed bodies of
18 livestock or parts thereof;

19 I. "cattle" means animals of the genus bos,
20 including dairy cattle, and does not include any other kind of
21 livestock;

22 J. "dairy cattle" means animals of the genus bos
23 raised not for consumption but for dairy products and
24 distinguished from meat breed cattle;

25 K. "director" means the executive director of the

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1 board;

2 L. "disease" means a communicable, infectious or
3 contagious disease;

4 M. "district" means a livestock inspection
5 district;

6 N. "estrays" means livestock found running at large
7 upon public or private lands, either fenced or unfenced, whose
8 owner is unknown, or that is branded with a brand that is not
9 on record in the office of the board or is a freshly branded or
10 marked offspring not with its branded or marked mother, unless
11 other proof of ownership is produced;

12 O. "inspector" means a livestock or brand
13 inspector;

14 P. "livestock inspector" means a certified
15 inspector who is granted full law enforcement powers for
16 enforcement of The Livestock Code and other criminal laws
17 relating to livestock;

18 Q. "mark" means an ear tag or ownership mark that
19 is not a brand;

20 R. "meat" means the edible flesh of poultry, birds
21 or animals sold for human consumption and includes livestock,
22 poultry and livestock and poultry products;

23 S. "mule" means a hybrid resulting from the cross
24 of a horse and an ass; and

25 T. "person" means an individual, firm, partnership,

1 association, corporation or similar legal entity."

2 SECTION 3. Section 77-18-5 NMSA 1978 (being Laws 2007,
3 Chapter 216, Section 1) is amended to read:

4 "77-18-5. WILD HORSES--CONFORMATION, HISTORY AND
5 DEOXYRIBONUCLEIC ACID TESTING--SPANISH COLONIAL HORSES--BIRTH
6 CONTROL--DISPOSITION PROCEDURES.--

7 A. As used in this section:

8 (1) "public land" does not include federal
9 land controlled by the bureau of land management, the forest
10 service or state trust land controlled by the state land
11 office;

12 (2) "range" means the amount of land necessary
13 to sustain a herd of wild horses, which does not exceed its
14 known territorial limits;

15 (3) "Spanish colonial horse" means a wild
16 horse that is descended from horses of the Spanish colonial
17 period; and

18 (4) "wild horse" means an unclaimed horse [~~on~~
19 ~~public land that is not an estray~~] without obvious brands or
20 other evidence of private ownership that is determined by the
21 board to originate from public land or federal land or to be
22 part of or descended from a herd that lives on or originates
23 from public land; but "wild horse" does not include horses that
24 are subject to the jurisdiction of the federal government
25 pursuant to the federal Wild Free-Roaming Horses and Burros

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2 B. A wild horse that is captured on New Mexico
3 public land shall have its conformation, history and
4 deoxyribonucleic acid tested to determine if it is a Spanish
5 colonial horse. If it is a Spanish colonial horse, the wild
6 horse shall be relocated to a New Mexico state or private wild
7 horse preserve created and maintained for the purpose of
8 protecting Spanish colonial horses. If it is not a Spanish
9 colonial horse, it shall be returned to the New Mexico public
10 land, relocated to a New Mexico public or private wild horse
11 preserve or put up for adoption by the agency on whose land the
12 wild horse was captured.

13 C. ~~[If the mammal division of the museum of~~
14 ~~southwestern biology at the university of New Mexico~~
15 ~~determines that a wild horse herd exceeds the number of~~
16 ~~horses that is necessary for preserving the genetic stock of~~
17 ~~the herd and for preserving and maintaining the range, it may~~
18 ~~cause control of the wild horse population through the use of~~
19 ~~birth control and may cause excess horses to be] At the~~
20 discretion of the board, a wild horse that is captured on New
21 Mexico private land shall be:

22 (1) humanely captured and relocated to New
23 Mexico public land or to a New Mexico public or private wild
24 horse preserve;

25 (2) adopted by a qualified person for

1 private maintenance, upon payment of an adoption fee that
2 shall not exceed the cost of caring for the wild horse while
3 it was under the control of the board; or

4 (3) humanely euthanized by a licensed
5 veterinarian; provided that this option shall only be
6 available as a last resort when a wild horse:

7 (a) is determined by a licensed
8 veterinarian to be crippled or otherwise unhealthy; or

9 (b) cannot be relocated to a public or
10 private wild horse preserve or adopted.

11 D. Upon request of the board to determine the
12 viability of a specific New Mexico wild horse herd on the
13 range they occupy, the range improvement task force of New
14 Mexico state university will evaluate the range conditions to
15 determine the number of wild horses in the herd that the
16 range can support and maintain the ecological health of the
17 range. The range improvement task force will report the
18 results of that evaluation to the board. If required, the
19 board may cause control of the New Mexico wild horse herd
20 population through the use of birth control and may cause
21 excess horses to be:

22 (1) humanely captured and relocated to other
23 New Mexico public land or to a New Mexico public or private
24 wild horse preserve;

25 (2) adopted by a qualified person for

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1 private maintenance or a horse rescue or retirement facility;
2 or

3 (3) humanely euthanized; provided that this
4 option applies only to wild horses that are determined by a
5 licensed veterinarian to be crippled or otherwise unhealthy.

6 E. The range improvement task force shall submit
7 an annual report to the legislature on the results of
8 evaluations made in that year and other appropriate comments
9 on the status of the overall New Mexico range.

10 F. As used in this section, "adoption" means
11 adoption by qualified individuals as provided for under the
12 federal Wild Free-Roaming Horses and Burros Act."