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AN ACT

RELATING TO ANIMALS; PROVIDING A REGISTERED EQUINE RESCUE OR  
RETIREMENT FACILITY WITH THE RIGHT OF FIRST REFUSAL TO  
PURCHASE ESTRAY, CRUELLY TREATED OR TRESPASSING EQUINES;  
DEFINING "EQUINE"; MAKING CONFORMING CHANGES.

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

SECTION 1. Section 7-2-30.7 NMSA 1978 (being Laws 2013,  
Chapter 49, Section 2) is amended to read:

"7-2-30.7. OPTIONAL DESIGNATION OF TAX REFUND  
CONTRIBUTION--EQUINE SHELTER RESCUE FUND.--

A. Any individual whose state income tax liability  
after application of allowable credits and tax rebates in any  
year is lower than the amount of money held by the department  
to the credit of such individual for that tax year may  
designate any portion of the income tax refund due to the  
individual to be paid to the equine shelter rescue fund. In  
the case of a joint return, both individuals must make such a  
designation.

B. The department shall revise the state income  
tax form to allow the designation of such contributions in  
the following form:

"Equine Shelter Rescue Fund - Check [ ] if you wish  
to contribute a part or all of your tax refund to  
the equine shelter rescue fund. Enter here

1                   \$\_\_\_\_\_ the amount of your contribution.".

2                   C. The provisions of this section do not apply to  
3 income tax refunds subject to interception under the  
4 provisions of the Tax Refund Intercept Program Act, and any  
5 designation made under the provisions of this section to such  
6 refunds is void."

7                   **SECTION 2.** Section 30-18-1.2 NMSA 1978 (being Laws  
8 1999, Chapter 107, Section 3, as amended) is amended to read:

9                   "30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

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

14                  B. If the court finds that a seized animal is  
15 being cruelly treated or that the animal's owner is unable to  
16 provide for the animal adequately, the court shall hold a  
17 hearing to determine the disposition of the animal.

18                  C. An agent of the New Mexico livestock board, an  
19 animal control agency operated by the state, a county or a  
20 municipality, an animal shelter or other animal welfare  
21 organization designated by an animal control agency or an  
22 animal shelter, in the custody of which an animal that has  
23 been cruelly treated has been placed may petition the court  
24 to request that the animal's owner may be ordered to post  
25 security with the court to indemnify the costs incurred to

1 care and provide for the seized animal pending the  
2 disposition of any criminal charges of committing cruelty to  
3 animals pending against the animal's owner.

4 D. The court shall determine the amount of  
5 security while taking into consideration all of the  
6 circumstances of the case, including the owner's ability to  
7 pay, and may conduct periodic reviews of its order. If the  
8 posting of security is ordered, the animal control agency,  
9 animal shelter or animal welfare organization may, with  
10 permission of the court, draw from the security to indemnify  
11 the costs incurred to care and provide for the seized animal  
12 pending disposition of the criminal charges.

13 E. If the owner of the animal does not post  
14 security within fifteen days after the issuance of the order,  
15 or if, after reasonable and diligent attempts the owner  
16 cannot be located, the animal may be deemed abandoned and  
17 relinquished to the animal control agency, animal shelter or  
18 animal welfare organization for adoption or humane  
19 destruction; provided that if the animal is livestock other  
20 than poultry associated with cockfighting, the animal may be  
21 sold pursuant to the procedures set forth in Section 77-18-2  
22 NMSA 1978.

23 F. Nothing in this section shall prohibit an owner  
24 from voluntarily relinquishing an animal to an animal control  
25 agency or shelter in lieu of posting security. A voluntary

1 relinquishment shall not preclude further prosecution of any  
2 criminal charges alleging that the owner has committed felony  
3 cruelty to animals.

4 G. Upon conviction, the court shall place the  
5 animal with an animal shelter or animal welfare organization  
6 for placement or for humane destruction.

7 H. As used in this section:

8 (1) "livestock" means all domestic or  
9 domesticated animals that are used or raised on a farm or  
10 ranch and exotic animals in captivity and includes equines,  
11 cattle, sheep, goats, swine, bison, poultry, ostriches, emus,  
12 rheas, camelids and farmed cervidae but does not include  
13 canine or feline animals; and

14 (2) "equine" means a horse, pony, mule,  
15 donkey or hinny."

16 SECTION 3. Section 77-2-1.1 NMSA 1978 (being Laws 1993,  
17 Chapter 248, Section 2, as amended) is amended to read:

18 "77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

19 A. "animals" or "livestock" means all domestic or  
20 domesticated animals that are used or raised on a farm or  
21 ranch, including the carcasses thereof, and exotic animals in  
22 captivity and includes equines, cattle, sheep, goats, swine,  
23 bison, poultry, ostriches, emus, rheas, camelids and farmed  
24 cervidae upon any land in New Mexico. "Animals" or  
25 "livestock" does not include canine or feline animals;

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

5           C. "bison" or "buffalo" means a bovine animal of  
6 the species bison;

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

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

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

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

21           H. "carcasses" means dead or dressed bodies of  
22 livestock or parts thereof;

23           I. "cattle" means animals of the genus bos,  
24 including dairy cattle, and does not include any other kind  
25 of livestock;

1           J. "dairy cattle" means animals of the genus bos  
2 raised not for consumption but for dairy products and  
3 distinguished from meat breed cattle;

4           K. "director" means the executive director of the  
5 board;

6           L. "disease" means a communicable, infectious or  
7 contagious disease;

8           M. "district" means a livestock inspection  
9 district;

10          N. "equine" means a horse, pony, mule, donkey or  
11 hinny;

12          O. "estrays" means livestock found running at large  
13 upon public or private lands, either fenced or unfenced,  
14 whose owner is unknown, or that is branded with a brand that  
15 is not on record in the office of the board or is a freshly  
16 branded or marked offspring not with its branded or marked  
17 mother, unless other proof of ownership is produced;

18          P. "hinny" means the offspring of a male horse and  
19 a female donkey;

20          Q. "inspector" means a livestock or brand  
21 inspector;

22          R. "livestock inspector" means a certified  
23 inspector who is granted full law enforcement powers for  
24 enforcement of The Livestock Code and other criminal laws  
25 relating to livestock;

1           S. "mark" means an ear tag or ownership mark that  
2 is not a brand;

3           T. "meat" means the edible flesh of poultry, birds  
4 or animals sold for human consumption and includes livestock,  
5 poultry and livestock and poultry products;

6           U. "mule" means the offspring of a female horse  
7 and a male donkey; and

8           V. "person" means an individual, firm,  
9 partnership, association, corporation or similar legal  
10 entity."

11           **SECTION 4.** Section 77-2-30 NMSA 1978 (being Laws 2005,  
12 Chapter 236, Section 1) is amended to read:

13           "77-2-30. EQUINE RESCUE OR RETIREMENT FACILITY--  
14 REGISTRATION--BOARD POWERS AND DUTIES--FEES.--

15           A. As used in this section, "facility" means an  
16 equine rescue or retirement facility, including a private  
17 reserve or private preserve, that advertises or solicits for  
18 equines and provides lifelong care or finds new owners for  
19 equines that are unwanted or have been neglected or abused or  
20 captured wild equines that cannot be returned to their range.

21           B. A facility shall not operate in New Mexico  
22 unless registered by the board.

23           C. The board shall:

24                   (1) register facilities that meet the  
25 requirements of this section;

1                   (2) annually consult with representatives  
2 from the equine industry, equine rescue organizations and  
3 veterinarians on facility standards; and

4                   (3) after consideration of recommendations  
5 by facilities and national organizations for the care of  
6 unwanted equines, promulgate rules for facilities, including:

7                                 (a) health and sanitary requirements;

8                                 (b) standards for barns, paddocks,  
9 pastures and ranges;

10                                (c) qualifications of the facility  
11 staff;

12                                (d) provision of veterinary care;

13                                (e) feeding and watering requirements;

14                                (f) transportation;

15                                (g) a process to issue a temporary  
16 capacity waiver to a facility for the purpose of transferring  
17 to a facility equines in the custody of the board; and

18                                (h) other requirements necessary to  
19 ensure the humane care of equines.

20                   D. The board may charge the following fees:

21                                (1) an initial inspection and registration  
22 fee of not more than two hundred fifty dollars (\$250);

23                                (2) an annual inspection and registration  
24 fee of not more than one hundred dollars (\$100); and

25                                (3) reinspection fees of not more than one



1 hundred dollars (\$100).

2 E. Fees collected pursuant to this section shall  
3 be deposited in the New Mexico livestock board general fund  
4 and may be used to carry out the provisions of this section  
5 and Section 77-2-31 NMSA 1978."

6 SECTION 5. Section 77-2-31 NMSA 1978 (being Laws 2005,  
7 Chapter 236, Section 2) is amended to read:

8 "77-2-31. EQUINE RESCUE OR RETIREMENT FACILITIES--  
9 INSPECTIONS--REINSPECTION.--

10 A. Prior to annual registration, each facility  
11 shall be inspected in accordance with board rules.

12 B. The board or its agents may enter the premises  
13 of a facility to conduct unannounced inspections.

14 C. If, following an inspection, the board  
15 determines that the facility does not meet the board's  
16 minimum facility requirements, it shall give the registrant  
17 written notice of the deficiencies and schedule a  
18 reinspection, allowing a reasonable time for the registrant  
19 to correct the deficiencies.

20 D. The registrant shall remedy the deficiencies  
21 and submit evidence to the board demonstrating compliance  
22 with board rules for the facility.

23 E. If on reinspection the board determines that  
24 the facility is still deficient in those areas for which it  
25 has been given written notice, the equines may be impounded

1 in accordance with the provisions of Section 77-18-2 NMSA  
2 1978 and the board shall hold a hearing as provided in the  
3 Uniform Licensing Act to determine if the registration should  
4 be suspended or revoked.

5 F. If a facility's registration is suspended or  
6 revoked, the board shall place the equines in another  
7 facility."

8 **SECTION 6.** Section 77-2-32 NMSA 1978 (being Laws 2013,  
9 Chapter 49, Section 1) is amended to read:

10 "77-2-32. EQUINE SHELTER RESCUE FUND--CREATED.--

11 A. The "equine shelter rescue fund" is created as  
12 a nonreverting fund in the state treasury. The fund consists  
13 of appropriations, gifts, grants, donations and amounts  
14 designated pursuant to Section 7-2-30.7 NMSA 1978. The board  
15 shall administer the fund, and money in the fund is  
16 appropriated to the board to carry out the intent of aiding  
17 equine rescues and homeless equines in the state.

18 B. The board shall establish by rule the  
19 distribution of funds from the equine shelter rescue fund to  
20 equine rescue and retirement facilities registered by the  
21 board pursuant to Section 77-2-30 NMSA 1978, taking into  
22 consideration the number of equines being cared for in each  
23 facility and the need of each facility."

24 **SECTION 7.** Section 77-13-4 NMSA 1978 (being Laws 1907,  
25 Chapter 80, Section 4, as amended) is amended to read:

1 "77-13-4. OWNER UNKNOWN--PUBLICATION AND POSTING OF  
2 NOTICE.--

3 A. If the director of the board is unable to  
4 determine from the records and description who is the owner  
5 or probable owner of an estray, the director shall publish at  
6 least once in some publication in general circulation in the  
7 county in which the estray animal was picked up, the  
8 publication to be designated by the board, a notice of the  
9 estray.

10 B. For an estray that is not an equine, the notice  
11 shall give a description of the animal, shall state when and  
12 where it was impounded and shall give notice that unless the  
13 animal is claimed by the legal owner within five days after  
14 the publication of the notice, the animal shall be sold by  
15 the board for the benefit of the owner when found.

16 C. For an estray that is an equine, the notice  
17 shall give a description of the equine, shall state when and  
18 where it was impounded and shall give notice that, unless the  
19 equine is claimed by the legal owner within five days after  
20 publication of the notice, a registered equine rescue or  
21 retirement facility shall be given the right of first refusal  
22 to purchase the equine for an ownership transfer fee as  
23 established by board rule, but not to exceed the actual costs  
24 incurred in caring for the equine while the equine was  
25 impounded, and that if a registered equine rescue or

1 retirement facility is unable or unwilling to purchase the  
2 equine, the board shall auction the equine through a closed  
3 bid process administered by the board and established in  
4 rule. If the equine is not purchased through the closed bid  
5 process, the board shall have the equine humanely euthanized  
6 by a licensed veterinarian."

7 **SECTION 8.** Section 77-13-5 NMSA 1978 (being Laws 1907,  
8 Chapter 80, Section 5, as amended) is amended to read:

9 "77-13-5. DISPOSITION OF UNCLAIMED ESTRAYS--BILL OF  
10 SALE--EFFECT--SALE WITHOUT ADVERTISEMENT--CONDITIONS.--

11 A. If an estray, other than an equine, is not  
12 claimed within five days after the last publication of  
13 notice, it may be sold by the board through an inspector in  
14 such manner as the board may direct. The inspector making  
15 the sale shall give a bill of sale to the purchaser from the  
16 board, signed by the inspector. The bill of sale shall be  
17 legal evidence of the ownership of the livestock by the  
18 purchaser and shall be a legal title to the livestock. Where  
19 the director determines that it is impractical to publish  
20 notice, the estray may be sold immediately without notice.  
21 In such case, the board shall publish notice of the proceeds  
22 from the sale of the estray in the same manner and for the  
23 same length of time as provided for the notice of the sale  
24 and shall hold and distribute the proceeds from the sale in  
25 the same manner as if the sale were made after notice.

1           B. If the stray is an equine and the equine is  
2 not claimed within five days after the last publication of  
3 notice, the board shall give a registered equine rescue or  
4 retirement facility the right of first refusal to purchase  
5 the equine for an ownership transfer fee. The ownership  
6 transfer fee shall be established by board rule and shall not  
7 exceed the actual costs incurred in caring for the equine  
8 while the equine was impounded. The board shall provide a  
9 bill of sale to the registered equine rescue or retirement  
10 facility that purchases the equine. The bill of sale shall  
11 be legal evidence of the ownership of the equine by the  
12 registered equine rescue or retirement facility and shall be  
13 legal title to the equine. If a registered equine rescue or  
14 retirement facility is unable or unwilling to purchase the  
15 equine, the board shall auction the equine through a closed  
16 bid process administered by the board and established in  
17 rule. If the equine is not purchased through the closed bid  
18 process, the board shall have the equine humanely euthanized  
19 by a licensed veterinarian."

20           **SECTION 9.** Section 77-13-6 NMSA 1978 (being Laws 1907,  
21 Chapter 80, Section 6, as amended) is amended to read:

22           "77-13-6. DISPOSITION OF PROCEEDS--RECORD OF SALE--  
23 PAYMENTS TO OWNER.--Proceeds from the sale of an stray  
24 pursuant to Section 77-13-5 NMSA 1978 shall be returned to  
25 the board. The board shall pay the expenses incurred in the

1 impounding, publishing of notice and selling of the animal  
2 and place the balance in the fund of the board, making a  
3 record of the same showing the marks and brands and other  
4 means of identification of the livestock and giving the  
5 amount realized from the sale. The record shall be open to  
6 inspection by the public. Should the lawful owner of an  
7 estray that has been sold be found within two years after the  
8 sale of the livestock, the net amount received from the sale  
9 of the estray less the sum prescribed by law for office  
10 handling fees shall be paid to the owner upon the owner's  
11 proving ownership to the satisfaction of the board."

12 SECTION 10. Section 77-14-7 NMSA 1978 (being Laws 1909,  
13 Chapter 146, Section 4, as amended) is amended to read:

14 "77-14-7. LIVESTOCK RUNNING AT LARGE--WHEN UNLAWFUL--  
15 IMPOUNDING--DISPOSITION--SUIT FOR DAMAGES.--

16 A. After the publication and posting of an order  
17 pursuant to Section 77-14-6 NMSA 1978, it is unlawful for the  
18 owners of livestock to allow the livestock to run at large  
19 within the town, conservancy district, irrigation district or  
20 military reservation or enclave. An owner who willfully  
21 allows livestock to run at large in violation of the order is  
22 guilty of a misdemeanor and upon conviction shall be punished  
23 in accordance with the provisions of Section 31-19-1 NMSA  
24 1978 for each offense.

25 B. If the livestock is not an equine, the sheriff

1 or other peace officer or proper military authority shall  
2 impound livestock found running at large and sell the  
3 livestock at public auction to the highest bidder for cash  
4 after giving notice of the time and place of sale in some  
5 newspaper published in the county where the violation  
6 occurred three days prior to the day of sale; provided that  
7 in the case of a military reservation or enclave, the sale  
8 shall be conducted by the board pursuant to the procedure set  
9 forth in Section 77-14-36 NMSA 1978. The proceeds up to five  
10 dollars (\$5.00) per day for each animal shall be retained by  
11 the impounding authority to cover its expense and fees. The  
12 balance, if any, shall be paid to the general fund.

13 C. If the livestock is an equine, the sheriff,  
14 other peace officer, proper military authority or the board  
15 shall impound the equine running at large and give notice in  
16 some newspaper published in the county where the violation  
17 occurred that unless the equine is redeemed by the legal  
18 owner within three days after publication of the notice, a  
19 registered equine rescue or retirement facility shall be  
20 given the right of first refusal to purchase the equine for  
21 an ownership transfer fee as established by board rule, but  
22 not to exceed the actual costs incurred in caring for the  
23 equine while the equine was impounded, and that if a  
24 registered equine rescue or retirement facility is unable or  
25 unwilling to purchase the equine, the board shall auction the

1 equine through a closed bid process administered by the board  
2 and established in rule. If the equine is not purchased  
3 through the closed bid process, the board shall have the  
4 equine humanely euthanized by a licensed veterinarian. The  
5 notice shall additionally give a description of the equine  
6 and state when and where it was impounded. Any proceeds from  
7 the sale of an equine pursuant to this subsection shall be  
8 retained by the impounding authority to cover its expenses  
9 and costs. The balance, if any, shall be paid to the general  
10 fund.

11 D. The owner of livestock impounded may redeem the  
12 livestock at any time prior to sale by paying the impound  
13 fees and costs incurred for each day or portion of a day that  
14 the livestock has been in custody; provided that in the case  
15 of a military reservation or enclave, redemption shall be  
16 allowed pursuant to Section 77-14-36 NMSA 1978.

17 E. A person claiming damages for violation of the  
18 order may file suit to recover damages as in other civil  
19 cases; provided that such damages, in the case of a violation  
20 involving a military reservation or enclave, shall include  
21 direct, indirect, incidental and consequential damages."

22 SECTION 11. Section 77-14-15 NMSA 1978 (being Laws  
23 1919, Chapter 88, Section 9) is amended to read:

24 "77-14-15. DISPOSITION OF LIVESTOCK BEFORE JUDGMENT--  
25 PROCEEDS--LIABILITY.--



1           A. In the event suit is filed and the livestock is  
2 not replevined and the magistrate is of the opinion that the  
3 cost of caring for the livestock until final judgment will  
4 exceed the value of the livestock, the magistrate:

5                   (1) if the livestock is not an equine, may  
6 sell the livestock as provided in Section 77-14-16 NMSA 1978  
7 and after deducting from the proceeds of the sale all costs  
8 to date, the magistrate shall deposit the remainder of the  
9 proceeds with the county clerk to be held by the county clerk  
10 to await final determination of the matter. The county clerk  
11 receiving any money under the provisions of Sections 77-14-8  
12 through 77-14-24 NMSA 1978 shall be liable on the county  
13 clerk's official bond for the money; and

14                   (2) if the livestock is an equine, shall  
15 give a registered equine rescue or retirement facility the  
16 right of first refusal to purchase the equine for an  
17 ownership transfer fee. The ownership transfer fee shall be  
18 established by board rule and shall not exceed the actual  
19 costs incurred in caring for the equine while the equine was  
20 impounded. The magistrate shall provide a bill of sale to  
21 the registered equine rescue or retirement facility that  
22 purchases the equine. The bill of sale shall be legal  
23 evidence of the ownership of the equine by the registered  
24 equine rescue or retirement facility and shall be legal title  
25 to the equine.

1           B. If a registered equine rescue or retirement  
2 facility is unable or unwilling to purchase the equine, the  
3 board shall auction the equine through a closed bid process  
4 administered by the board and established in rule. If the  
5 equine is purchased through the closed bid process, the  
6 proceeds of the sale less costs shall be deposited with the  
7 county clerk pending final determination of the matter. If  
8 the equine is not purchased through the closed bid process,  
9 the equine shall remain in the custody of the magistrate or  
10 board pending the disposition of the case."

11           **SECTION 12.** Section 77-14-17 NMSA 1978 (being Laws  
12 1919, Chapter 88, Section 11) is amended to read:

13           "77-14-17. DELIVERY OF LIVESTOCK TO MAGISTRATE.--

14           A. In the event the party claiming damages and the  
15 owner of the property cannot agree as to the damages or in  
16 the event the parties do not agree to arbitrate or in the  
17 event the parties do agree as to the damages and the owner  
18 fails or refuses to immediately pay the damages or in the  
19 event the parties agree to arbitrate and the owner of the  
20 livestock fails to immediately pay the amount adjudged to be  
21 due by arbitrators, if the livestock has not already been  
22 delivered to the magistrate, the livestock shall be  
23 immediately delivered to the magistrate.

24           B. If the livestock is not an equine, the  
25 magistrate shall immediately proceed to sell the livestock as

1 provided in Section 77-14-18 NMSA 1978.

2 C. If the livestock is an equine:

3 (1) the magistrate shall give a registered  
4 equine rescue or retirement facility the right of first  
5 refusal to purchase the equine for an ownership transfer fee.  
6 The ownership transfer fee shall be established by board rule  
7 and shall not exceed the actual costs incurred in caring for  
8 the equine while the equine was impounded. The magistrate  
9 shall provide a bill of sale to the registered equine rescue  
10 or retirement facility that purchases the equine. The bill  
11 of sale shall be legal evidence of the ownership of the  
12 equine by the registered equine rescue or retirement facility  
13 and shall be legal title to the equine;

14 (2) if a registered equine rescue or  
15 retirement facility is unable or unwilling to purchase the  
16 equine, the board shall auction the equine through a closed  
17 bid process administered by the board and established in  
18 rule. After deducting from the proceeds of the sale all  
19 costs to date, the magistrate shall deposit the remainder of  
20 the proceeds with the county clerk to be held by the county  
21 clerk pending a final determination of the matter; and

22 (3) if the equine is not purchased through  
23 the closed bid process, the equine shall remain in the  
24 custody of the magistrate or board pending an agreement by  
25 the owner to the satisfaction of the magistrate that the

1 damages will be paid or pending the disposition of the  
2 matter. The magistrate may order the owner to sell the  
3 equine to satisfy the judgment."

4 SECTION 13. Section 77-14-18 NMSA 1978 (being Laws  
5 1919, Chapter 88, Section 12) is amended to read:

6 "77-14-18. NOTICE OF SALE.--

7 A. In the event that it becomes the duty of the  
8 magistrate to sell any livestock that is not an equine under  
9 the terms of Sections 77-14-8 through 77-14-24 NMSA 1978, the  
10 magistrate shall give notice of the sale by posting notices  
11 in six public places within the political subdivision and  
12 also give notice to the owner of the property by mailing a  
13 copy of the posted notice to the owner at the owner's last  
14 and ordinary place of address. The notice shall state the  
15 purpose of the sale, describe the number and kind of animals,  
16 give their brands and marks, if any, state the amount of  
17 costs, fees and damages for which the livestock is to be sold  
18 and shall state the hour and day of sale, which time shall  
19 not be less than five nor more than twenty days from the time  
20 of posting the notice.

21 B. In case the damages are awarded by judgment in  
22 court in an action brought for that purpose, livestock that  
23 is not an equine shall be sold under execution as in other  
24 cases."

25 SECTION 14. Section 77-14-19 NMSA 1978 (being Laws

1 1919, Chapter 88, Section 13) is amended to read:

2 "77-14-19. SALE OF LIVESTOCK--DOCKET ENTRY--OWNER  
3 SUMMONED.--

4 A. Should the party claiming damages deliver the  
5 livestock to the magistrate to be held and impounded for  
6 damages, it is the duty of the magistrate to note on the  
7 magistrate's docket at the time of delivery the number and  
8 kind of animals, the marks and brands thereon, the time of  
9 delivery, the name of the owner if known and of the person  
10 delivering the livestock and the amount of the person's claim  
11 for damages.

12 B. The magistrate shall summon the owner of the  
13 livestock, if known or the owner's whereabouts can be  
14 ascertained, to appear before the magistrate and show cause  
15 why:

16 (1) if the livestock is not an equine, the  
17 livestock should not be sold to pay the claim for damages and  
18 costs of court; and

19 (2) if the livestock is an equine, a  
20 registered equine rescue or retirement facility should not be  
21 given the right of first refusal to purchase the equine or if  
22 a registered equine rescue or retirement facility is unable  
23 or unwilling to purchase the equine, auctioned through a  
24 closed bid process administered by the board."

25 SECTION 15. Section 77-14-36 NMSA 1978 (being Laws

1 1975, Chapter 329, Section 1, as amended) is amended to read:

2 "77-14-36. IMPOUNDMENT OF TRESPASS LIVESTOCK.--

3 A. Any livestock found to be in trespass upon the  
4 lands of another or running at large upon any public highway  
5 that is fenced on both sides or running at large within the  
6 limits of any municipality, town or village, whether  
7 incorporated or not, or within a military reservation or  
8 enclave is subject to impoundment by an agent of the board.  
9 The place of impoundment shall be at the nearest or most  
10 convenient location from where the trespass occurred.

11 B. Any livestock impounded under the provisions of  
12 this section shall be released to the owner or the owner's  
13 representative upon the payment by the owner of a fee set by  
14 regulation of the board not to exceed amounts prescribed by  
15 law for impounding.

16 C. The board shall designate a custodian and a  
17 place of impoundment and allow a reasonable fee to be charged  
18 by the custodian of the impounded livestock; provided that in  
19 case of a controversy as to what constitutes a reasonable  
20 charge, the board shall set the amount of the charge.

21 D. This section shall not be construed to affect  
22 the obligation of a property owner of meeting the  
23 requirements of Section 77-16-1 NMSA 1978 for fencing against  
24 such trespasses.

25 E. Any cost charged against trespass livestock

1 will be a lien on the livestock. If the owner does not pay  
2 the charges and reclaim possession of the livestock within  
3 five days after receipt of notification by the owner, the  
4 livestock shall be considered unclaimed estrays and may be  
5 disposed of in accordance with the provisions of Section  
6 77-13-5 NMSA 1978."

7       **SECTION 16.** Section 77-18-2 NMSA 1978 (being Laws 1987,  
8 Chapter 151, Section 1, as amended) is amended to read:

9       "77-18-2. SEIZURE AND DISPOSITION OF CRUELLY TREATED  
10 LIVESTOCK.--

11           A. If a livestock inspector or other peace officer  
12 has reason to believe that livestock are being cruelly  
13 treated, the inspector or peace officer may apply to a court  
14 in the county where the livestock are located for a warrant  
15 to seize the allegedly cruelly treated livestock.

16           B. On a showing of probable cause to believe that  
17 the livestock are being cruelly treated, the court shall  
18 issue a warrant for the seizure of the livestock and set the  
19 matter for hearing as expeditiously as possible within thirty  
20 days unless good cause for a later time is demonstrated by  
21 the state. Seizure as authorized by this section shall be  
22 restricted to only those livestock allegedly being cruelly  
23 treated. The board by rule shall establish procedures for  
24 preserving evidence of alleged cruel treatment of livestock.

25           C. If criminal charges are filed against the

1 owner, the court shall, upon proper petition, proceed to  
2 determine if security is required to be posted pursuant to  
3 Section 30-18-1.2 NMSA 1978. Otherwise, the judge or  
4 magistrate executing the warrant shall notify the board, have  
5 the livestock impounded and give written notice to the owner  
6 of the livestock of the time and place of a hearing to  
7 determine disposition of the livestock. All interested  
8 parties, including the district attorney, shall be given an  
9 opportunity to present evidence at the hearing.

10 D. For livestock that is not an equine:

11 (1) if the court finds that the owner has  
12 cruelly treated the livestock, the court shall order the sale  
13 of the livestock at fair market value or order humane  
14 destruction. If the livestock are ordered sold, the sale  
15 shall occur within ten days of the order. If the court does  
16 not find that the owner has cruelly treated the livestock,  
17 the court shall order the livestock returned to the owner;

18 (2) if the court orders the sale of the  
19 livestock, the board shall take proper action to ensure that  
20 the livestock are sold at fair market value, including  
21 acceptance of reasonable bids or sale at auction. A bid by  
22 the owner of the livestock or the owner's representative  
23 shall not be accepted; and

24 (3) proceeds from the sale of the livestock  
25 shall be forwarded to the court ordering the sale. From



1 these proceeds, the court shall pay all expenses incurred in  
2 caring for the livestock while they were impounded and any  
3 expenses involved in their sale. Any excess proceeds of the  
4 sale shall be forwarded to the former owner. If the expenses  
5 incurred in caring for and selling the livestock exceed the  
6 amount received from the sale, the court shall order the  
7 former owner to pay the additional cost.

8 E. For livestock that is an equine:

9 (1) if the court finds that the owner has  
10 cruelly treated the equine, the court shall give a registered  
11 equine rescue or retirement facility the right of first  
12 refusal to purchase the equine for an ownership transfer fee.  
13 The ownership transfer fee shall be established by board rule  
14 and shall not exceed the actual costs incurred in caring for  
15 the equine while the equine was impounded. The board shall  
16 provide a bill of sale to the registered equine rescue or  
17 retirement facility that purchases the equine. The bill of  
18 sale shall be legal evidence of the ownership of the equine  
19 by the registered equine rescue or retirement facility and  
20 shall be legal title to the equine;

21 (2) if the court finds that the owner has  
22 cruelly treated the equine and a registered equine rescue or  
23 retirement facility has been given the right of first refusal  
24 but the registered equine rescue or retirement facility is  
25 unable or unwilling to purchase the equine, the board shall

1 auction the equine through a closed bid process administered  
2 by the board and established in rule. Any proceeds from the  
3 sale less expenses incurred in caring for the equine while  
4 the equine was impounded shall be forwarded to the former  
5 owner. If the expenses incurred in caring for the equine  
6 exceed the proceeds from the sale, the court shall order the  
7 former owner to pay the additional cost;

8 (3) if the equine is not purchased through  
9 the closed bid process, the board shall have the equine  
10 humanely euthanized by a licensed veterinarian; and

11 (4) if the court does not find that the  
12 owner cruelly treated the equine, the court shall order the  
13 equine returned to the owner." \_\_\_\_\_

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