

1 SENATE BILL 158

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

4 Pat Woods

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9  
10 AN ACT

11 RELATING TO LIVESTOCK; AMENDING SECTIONS OF THE NMSA 1978 TO  
12 EXCLUDE WILD HORSES AND OTHER ANIMALS FROM THE DEFINITION OF  
13 "LIVESTOCK"; PROVIDING PROCEDURES TO BE FOLLOWED WHEN WILD  
14 HORSES ARE CAPTURED ON PUBLIC OR PRIVATE LAND; MAKING  
15 CONFORMING TECHNICAL CHANGES.

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

20 "30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

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

25 B. If the court finds that a seized animal is being

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1 cruelly treated or that the animal's owner is unable to provide  
2 for the animal adequately, the court shall hold a hearing to  
3 determine the disposition of the animal.

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

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

24 E. If the owner of the animal does not post  
25 security within fifteen days after the issuance of the order,

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1 or if, after reasonable and diligent attempts the owner cannot  
2 be located, the animal may be deemed abandoned and relinquished  
3 to the animal control agency, animal shelter or animal welfare  
4 organization for adoption or humane destruction; provided that  
5 if the animal is livestock other than poultry associated with  
6 cockfighting, the animal may be sold pursuant to the procedures  
7 set forth in Section 77-18-2 NMSA 1978.

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

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

17 H. As used in this section, "livestock" means ~~[all]~~  
18 domestic or domesticated animals that are used or raised on a  
19 farm or ranch, ~~[and exotic animals in captivity]~~ including the  
20 carcasses thereof, and:

21 (1) includes horses, asses, mules, cattle,  
22 sheep, goats, swine, bison, poultry, ostriches, emus, rheas,  
23 camelids, [and] farmed cervidae [but does not include canine or  
24 feline] and exotic animals in captivity; but

25 (2) does not include:

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1                   (a) wild horses as defined in Section  
2                   77-18-5 NMSA 1978;

3                   (b) horses or asses subject to the  
4                   jurisdiction of the federal government pursuant to the federal  
5                   Wild Free-Roaming Horses and Burros Act;

6                   (c) canine or feline animals;

7                   (d) feral hogs; or

8                   (e) game mammals as defined in Section  
9                   17-2-3 NMSA 1978, except farmed cervidae."

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

12                  "77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

13                   A. "animals" or "livestock" means [~~all~~] domestic or  
14 domesticated animals that are used or raised on a farm or  
15 ranch, including the carcasses thereof, and [~~exotic animals in~~  
16 ~~captivity and~~]:

17                   (1) includes horses, asses, mules, cattle,  
18 sheep, goats, swine, bison, poultry, ostriches, emus, rheas,  
19 camelids, [~~and~~] farmed cervidae [~~upon any land in New Mexico.~~  
20 "Animals" or "livestock"] and exotic animals in captivity; but

21                   (2) does not include [~~canine or feline~~  
22 animals]:

23                   (a) wild horses as defined in Section  
24                   77-18-5 NMSA 1978;

25                   (b) horses or asses subject to the

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1 jurisdiction of the federal government pursuant to the federal  
2 Wild Free-Roaming Horses and Burros Act;

3 (c) canine or feline animals;

4 (d) feral hogs; or

5 (e) game mammals as defined in Section  
6 17-2-3 NMSA 1978, except farmed cervidae;

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

11 C. "bison" or "buffalo" means a bovine animal of  
12 the species bison;

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

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

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

25 G. "brand inspector" means an inspector who is not

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1 certified as a peace officer;

2 H. "carcasses" means dead or dressed bodies of  
3 livestock or parts thereof;

4 I. "cattle" means animals of the genus bos,  
5 including dairy cattle, and does not include any other kind of  
6 livestock;

7 J. "dairy cattle" means animals of the genus bos  
8 raised not for consumption but for dairy products and  
9 distinguished from meat breed cattle;

10 K. "director" means the executive director of the  
11 board;

12 L. "disease" means a communicable, infectious or  
13 contagious disease;

14 M. "district" means a livestock inspection  
15 district;

16 N. "estrays" means livestock found running at large  
17 upon public or private lands, either fenced or unfenced:

18 (1) whose owner is unknown but that exhibits  
19 evidence of private ownership; or

20 (2) that is branded with a brand that is not  
21 on record in the office of the board or is a freshly branded or  
22 marked offspring not with its branded or marked mother, unless  
23 other proof of ownership is produced;

24 O. "inspector" means a livestock or brand  
25 inspector;

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1 P. "livestock inspector" means a certified  
2 inspector who is granted full law enforcement powers for  
3 enforcement of The Livestock Code and other criminal laws  
4 relating to livestock;

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

7 R. "meat" means the edible flesh of poultry, birds  
8 or animals sold for human consumption and includes livestock,  
9 poultry and livestock and poultry products;

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

12 T. "person" means an individual, firm, partnership,  
13 association, corporation or similar legal entity."

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

16 "77-18-5. WILD HORSES--CONFORMATION, HISTORY AND  
17 DEOXYRIBONUCLEIC ACID TESTING--SPANISH COLONIAL HORSES--BIRTH  
18 CONTROL--DISPOSITION PROCEDURES.--

19 A. As used in this section:

20 (1) "adoption" means adoption by qualified  
21 individuals as provided for under the federal Wild Free-Roaming  
22 Horses and Burros Act;

23 [~~(1)~~] (2) "public land" [~~does not include~~  
24 ~~federal land controlled by the bureau of land management, the~~  
25 ~~forest service or~~] means land controlled or supervised by an

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1 agency of the state government or its political subdivisions  
2 but does not mean state trust land controlled by the state land  
3 office;

4 [~~2~~] (3) "range" means the amount of land  
5 necessary to sustain a herd of wild horses, which range does  
6 not exceed its known territorial limits;

7 [~~3~~] (4) "Spanish colonial horse" means a  
8 wild horse that is descended from horses of the Spanish  
9 colonial period; and

10 [~~4~~] (5) "wild horse" means [~~an~~] a horse that  
11 is unclaimed [horse on public land that is not an estray] and  
12 without obvious brands or without other evidence of private  
13 ownership, but "wild horse" does not include horses that are  
14 subject to the jurisdiction of the federal government pursuant  
15 to the federal Wild Free-Roaming Horses and Burros Act.

16 B. A wild horse that is captured on public land  
17 shall have its conformation, history and deoxyribonucleic acid  
18 tested to determine if it is a Spanish colonial horse. If it  
19 is a Spanish colonial horse, the wild horse shall be relocated  
20 to a state or private wild horse preserve created and  
21 maintained for the purpose of protecting Spanish colonial  
22 horses. If it is not a Spanish colonial horse, it shall be  
23 returned to the public land, relocated to a public or private  
24 wild horse preserve or put up for adoption by the agency on  
25 whose land the wild horse was captured.

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1           C. ~~[If the mammal division of the museum of~~  
2 ~~southwestern biology at the university of New Mexico~~  
3 ~~determines that a wild horse herd exceeds the number of~~  
4 ~~horses that is necessary for preserving the genetic stock of~~  
5 ~~the herd and for preserving and maintaining the range, it may~~  
6 ~~cause control of the wild horse population through the use of~~  
7 ~~birth control and may cause excess horses to be]~~ At the  
8 discretion of the board, a wild horse that is captured on  
9 private land shall be:

10                     (1) humanely captured and relocated to  
11 public land or to a public or private wild horse preserve;

12                     (2) adopted by a qualified person for  
13 private maintenance, upon payment of an adoption fee that  
14 shall not exceed the cost of caring for the wild horse while  
15 it was under the control of the board; or

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

19                             (a) is determined by a licensed  
20 veterinarian to be crippled or otherwise unhealthy; or

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

23           D. If the board captures a horse on public or  
24 private land and the board determines that the horse is  
25 subject to the jurisdiction of the federal government

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1 pursuant to the federal Wild Free-Roaming Horses and Burros  
2 Act, the board shall transfer the horse to the federal bureau  
3 of land management or the United States forest service, as  
4 appropriate.

5 E. Upon request of the board to determine the  
6 viability of a specific New Mexico wild horse herd on the  
7 range it occupies, the range improvement task force of New  
8 Mexico state university shall evaluate the range conditions  
9 to determine the number of wild horses in the herd that the  
10 range can support while maintaining the ecological health of  
11 the range. The range improvement task force shall report the  
12 results of that evaluation to the board. If required, the  
13 board may cause the wild horse herd population to be  
14 controlled through the use of birth control and may cause  
15 excess horses to be:

16 (1) humanely captured and relocated to other  
17 public land or to a public or private wild horse preserve;

18 (2) adopted by a qualified person for  
19 private maintenance or a horse rescue or retirement facility;  
20 or

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

24 F. The range improvement task force shall submit  
25 an annual report to the legislature on the results of

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1 evaluations made in that year and other appropriate comments  
2 on the status of the overall New Mexico range."

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