

SENATE BILL 57

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

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This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO ANIMALS; IMPOSING AN ADDITIONAL FEE ON PET FOOD FOR DOGS AND CATS TO FUND THE DOG AND CAT SPAY AND NEUTER ASSISTANCE PROGRAM AND THE ANIMAL SHELTERING ACT; ESTABLISHING A HOUSEHOLD INCOME LEVEL FOR ASSISTANCE; REQUIRING REPORTING.

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

SECTION 1. Section 61-14-7.1 NMSA 1978 (being Laws 2017, Chapter 44, Section 3) is amended to read:

"61-14-7.1. ANIMAL SHELTERING COMMITTEE--DUTIES.--The sheltering committee shall:

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A. develop a voluntary statewide dog and cat spay and neuter program in conjunction with animal shelters and euthanasia agencies;

B. develop criteria for individuals,

SPAC→~~[nonprofit organizations]~~←SPAC SPAC→nonprofit organizations←SPAC SPAC→groups←SPAC, animal shelters and euthanasia agencies to receive assistance for dog and cat ~~[sterilization]~~ spaying and neutering from the animal care and facility fund; provided that assistance to individuals and SPAC→groups←SPAC SPAC→nonprofit organizations←SPAC shall only be given to individuals who have, or to SPAC→groups←SPAC SPAC→nonprofit organizations←SPAC that shall only provide assistance to service recipients who have, a household income that does not exceed two hundred percent of the current federal poverty level guidelines published by the United States department of health and human services; and

C. recommend to the board the disbursements of money from the animal care and facility fund to qualifying individuals, SPAC→~~[nonprofit organizations]~~←SPAC SPAC→nonprofit organizations←SPAC SPAC→groups←SPAC, animal shelters and euthanasia agencies."

SECTION 2. Section 77-1B-4 NMSA 1978 (being Laws 2007, Chapter 60, Section 4, as amended) is amended to read:

"77-1B-4. ANIMAL CARE AND FACILITY FUND CREATED--  
ADMINISTRATION.--

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A. The "animal care and facility fund" is created in the state treasury. All fees collected pursuant to the Animal Sheltering Act shall be deposited in the fund.

B. The animal care and facility fund shall consist of money collected by the board pursuant to the Animal Sheltering Act; income from investment of the fund; and money appropriated to the fund or accruing to it through fees or administrative penalties, cooperative research agreements, income, gifts, grants, donations, bequests, sales of promotional items, handbooks or educational materials or any other source. Money in the fund shall not be transferred to another fund or encumbered or expended except for expenditures authorized pursuant to the Animal Sheltering Act.

C. Money in the fund is appropriated by the legislature to the board to be used to help animal shelters and communities defray the cost of implementing the board's initiatives conducted pursuant to the Animal Sheltering Act. The fund shall be administered by the board to carry out the purposes of the Animal Sheltering Act.

D. The "statewide spay and neuter subaccount" is established in the animal care and facility fund. Money in the subaccount shall only be used to carry out the board's dog and cat ~~[sterilization]~~ spay and neuter assistance program and for the reasonable costs of administering the Animal Sheltering Act, which reasonable costs shall not exceed five percent of

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the total fees distributed to the subaccount pursuant to the provisions of Section 5 of this 2020 act. Money collected pursuant to Section 7-2-30.9 NMSA 1978, [~~and~~] Section 66-3-424.3 NMSA 1978 and Section 5 of this 2020 act shall be deposited in the subaccount.

E. A disbursement from the fund shall be made only upon a warrant drawn by the secretary of finance and administration pursuant to a voucher signed by the executive director of the board or the director's designee with the approval of the majority of the board with consideration of the recommendation of a majority of the animal sheltering committee.

F. Unexpended and unencumbered balances in the fund at the end of a fiscal year shall not revert to the general fund."

**SECTION 3.** Section 77-1B-5 NMSA 1978 (being Laws 2007, Chapter 60, Section 5, as amended) is amended to read:

"77-1B-5. **BOARD POWERS AND DUTIES.**--The board shall:

A. adopt infrastructure and operating standards and may enforce those standards with consideration of the recommendations by the animal sheltering committee;

B. provide for inspections of animal shelters and euthanasia agencies;

C. provide for oversight, including oversight of licensing requirements, regulations and discipline, of

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veterinarians employed by local government animal shelters;

D. adopt methods and procedures acceptable for conducting emergency field euthanasia;

E. adopt, promulgate and revise rules necessary to carry out the provisions of the Animal Sheltering Act;

F. have authority to issue licenses and certificates pursuant to the Animal Sheltering Act;

G. establish the types of licenses and certificates that may be issued pursuant to the Animal Sheltering Act and establish criteria for issuing the licenses and certificates;

H. prescribe standards and approve curricula for educational programs that will be used to train and prepare persons for licensure or certification pursuant to the Animal Sheltering Act;

I. implement continuing education requirements for licensees and certificate holders pursuant to the Animal Sheltering Act;

J. conduct administrative hearings upon charges relating to violations of provisions of the Animal Sheltering Act or rules adopted pursuant to that act in accordance with the Uniform Licensing Act;

K. provide for all examinations and for issuance and renewal of licenses and certificates;

L. establish fees not to exceed one hundred fifty dollars (\$150) for licenses and certificates pursuant to the

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Animal Sheltering Act;

M. establish committees as the board deems necessary to effect the provisions of the Animal Sheltering Act;

N. apply for injunctive relief to enforce the provisions of the Animal Sheltering Act;

O. conduct national criminal background checks on applicants seeking licensure or certification under the Animal Sheltering Act;

P. keep a record of all proceedings;

Q. make an annual report to the legislature, including information on the total number of dogs and cats spayed and neutered and the average costs per surgery paid for from the statewide spay and neuter subaccount of the animal care and facility fund. The New Mexico department of agriculture shall provide for inclusion in the annual report the number of pet foods registered pursuant to Section 76-19A-10 NMSA 1978 for the current and previous year listed by registrant;

R. provide for the inspection of animal shelters and euthanasia agencies;

S. develop mechanisms to address complaints of misconduct at animal shelters and euthanasia agencies and noncompliance with the provisions of the Animal Sheltering Act or rules adopted pursuant to that act;

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T. develop mechanisms to address complaints of licensee and certificate holder misconduct and noncompliance;

U. adopt standards for maintaining records concerning health care and disposition of animals; and

V. refer to the published [~~national~~] association of shelter veterinarians standards in determining its regulations for animal shelters and euthanasia agencies."

SECTION 4. Section 76-19A-1 NMSA 1978 (being Laws 2013, Chapter 23, Section 1) is amended to read:

"76-19A-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article 19A NMSA 1978 may be cited as the "New Mexico Commercial Feed Act"."

SECTION 5. A new section of the New Mexico Commercial Feed Act is enacted to read:

"[NEW MATERIAL] SPAY AND NEUTER PROGRAM FEE.--

A. Except as provided in Subsection B of this section, in addition to the commercial feed registration fee required pursuant to Section 76-19A-10 NMSA 1978, the department shall collect an annual fee on each pet food registered with the department as follows:

- (1) beginning January 1, 2021, fifty dollars (\$50.00);
- (2) beginning January 1, 2022, seventy-five dollars (\$75.00); and
- (3) on and after January 1, 2023, one hundred

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dollars (\$100).

B. The provisions of Subsection A of this section do not apply in cases of:

(1) prescription diet pet food prescribed by a veterinarian; or

(2) pet food manufactured by a person who demonstrates to the board, in a manner prescribed by the board, that the person's tax-year annual gross revenue from the distribution of pet food is no more than three million dollars (\$3,000,000).

C. The fee collected pursuant to Subsection A of this section shall be distributed as follows:

(1) ninety-six percent of the fee shall be deposited with the state treasurer and credited to the statewide spay and neuter subaccount of the animal care and facility fund; and

(2) four percent of the fee shall be distributed to the department to administer the New Mexico Commercial Feed Act."

**SECTION 6. DELAYED REPEAL.**--Section 5 of this act is repealed effective July 1, 2026.

**SECTION 7. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2020.