

HOUSE BILL 423

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

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AN ACT

RELATING TO LIVESTOCK; AMENDING REQUIREMENTS AND PROCEDURES  
RELATING TO ESTRAYS; AUTHORIZING THE GATHERING AND SALE OF  
ESTRAYS BY A PERSON OTHER THAN THE NEW MEXICO LIVESTOCK BOARD  
IN CERTAIN CIRCUMSTANCES; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of Chapter 77, Article 13 NMSA  
1978 is enacted to read:

"[NEW MATERIAL] PETITION TO REMOVE FIFTEEN OR MORE  
ESTRAYS--BOARD DUTIES--PETITIONER AUTHORIZED ACTIONS.--

A. If a person finds fifteen or more head of cattle  
on property the person owns or is entitled to graze cattle on  
pursuant to a permit, lease or allotment, or if the number is  
fewer than fifteen and constitutes ten percent of the carrying  
capacity of the land, permit, lease or allotment, as

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1 applicable, and the cattle appear to be unbranded, the person  
2 may petition the board in writing to inspect the cattle,  
3 determine if the cattle are estrays and, if the cattle are  
4 estrays, determine their disposition. Within fifteen days  
5 after receipt of the petition, the board shall make an  
6 inspection of the cattle.

7 B. If the board determines that the cattle are  
8 estrays, the board shall cause publication and posting notice  
9 of the estrays pursuant to Section 77-13-4 NMSA 1978.

10 C. If, after five days of the publication of the  
11 notice, the cattle are not claimed, the board may make  
12 arrangements to sell the estrays pursuant to the provisions of  
13 Sections 77-13-5 and 77-13-6 NMSA 1978; provided that if the  
14 board is unable to or fails to remove the cattle within sixty  
15 days of receiving the petition, the board shall relinquish all  
16 jurisdiction over the cattle and the cattle may be sold or  
17 branded pursuant to Paragraph (1) or (2) of Subsection D of  
18 this section.

19 D. If the board is unable or unwilling to sell the  
20 estrays, the board may allow the petitioner to:

21 (1) gather the cattle for inspection and sale,  
22 in which case, notwithstanding the provisions of Section  
23 77-13-6 NMSA 1978, the proceeds of the sale shall go to the  
24 petitioner; or

25 (2) notwithstanding the provisions of Section

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1 30-18-3 NMSA 1978, claim ownership by legally branding the  
2 cattle.

3 E. If the board allows the petitioner to gather the  
4 cattle for inspection and sale pursuant to Paragraph (1) of  
5 Subsection D of this section, the petitioner shall have twelve  
6 months to complete the process of gathering the cattle;  
7 provided that the board may allow for an extension of up to  
8 twelve months or require another petition.

9 F. Cattle removed pursuant to this section by the  
10 petitioner shall be exempt from any health test required by the  
11 board if sold to slaughter within the state or sold directly to  
12 a slaughter facility within thirty days of inspection by the  
13 board. Cattle sold within the state shall be slaughtered  
14 within thirty days or comply with all board health and brand  
15 requirements. If a buyer of the estrays or the petitioner  
16 desires to brand and keep the cattle, all board health  
17 requirements shall be complied with."

18 SECTION 2. Section 77-13-4 NMSA 1978 (being Laws 1907,  
19 Chapter 80, Section 4, as amended) is amended to read:

20 "77-13-4. OWNER UNKNOWN--PUBLICATION AND POSTING OF  
21 NOTICE.--If the director [~~of the New Mexico livestock board~~] is  
22 unable to determine from the records and description who is the  
23 owner or probable owner of [~~such~~] an estray, [~~or estrays, he~~]  
24 the director shall publish at least once in some publication in  
25 general circulation in the county in which the estray animal

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1 was picked up, ~~[said]~~ the publication to be designated by the  
2 ~~[New Mexico livestock]~~ board, a notice of ~~[such]~~ the estray  
3 ~~[which]~~. The notice shall give a description of the animal ~~[or~~  
4 ~~animals]~~, shall state when and where ~~[the same were]~~ it was  
5 impounded and shall give notice that unless the animal ~~[or~~  
6 ~~animals are]~~ is claimed by the legal owner within five days  
7 after the publication of the notice, the ~~[same shall]~~ animal  
8 may be sold by the ~~[New Mexico livestock]~~ board for the benefit  
9 of the owner when found or the board may relinquish  
10 jurisdiction over the estrays and the estrays may be sold or  
11 branded pursuant to Subsection D of Section 1 of this 2023  
12 act."

13 SECTION 3. Section 77-13-5 NMSA 1978 (being Laws 1907,  
14 Chapter 80, Section 5, as amended) is amended to read:

15 "77-13-5. SALE OF UNCLAIMED ESTRAYS--BILL OF SALE--  
16 EFFECT--SALE WITHOUT ADVERTISEMENT--CONDITIONS.--Except as  
17 provided in Section 1 of this 2023 act, if an estray is not  
18 claimed within five days after the last publication of notice,  
19 it may be sold by the board through an inspector in such manner  
20 as the board may direct. The inspector making the sale shall  
21 give a bill of sale to the purchaser from the board, signed by  
22 ~~[himself as]~~ the inspector. The bill of sale shall be legal  
23 evidence of the ownership of the livestock by the purchaser and  
24 shall be a legal title to the livestock. Where the director  
25 determines that it is impractical to publish notice, the estray

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