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HOUSE BILL 300

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

INTRODUCED BY

Georgene Louis

AN ACT

RELATING TO ANIMALS; PROHIBITING INTERFERENCE WITH A ZOO ANIMAL; PROVIDING A PENALTY; AMENDING THE DEFINITION OF "ANIMAL" FOR THE PURPOSE OF THE CRIMES OF CRUELTY TO ANIMALS AND EXTREME CRUELTY TO ANIMALS.

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

SECTION 1. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] INTERFERENCE WITH A ZOO ANIMAL.--

A. Interference with a zoo animal consists of the intentional, unauthorized and unjustified entry into an animal enclosure or habitat at a zoo while an animal is present or the intentional, unauthorized and unjustified physical contact with a zoo animal.

B. Whoever commits interference with a zoo animal

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1 is guilty of a petty misdemeanor.

2 C. As used in this section:

3 (1) "animal enclosure or habitat" means any  
4 cage, structure, building, fenced area or other premises where  
5 an animal is kept, handled, housed, exhibited or bred; and

6 (2) "zoo" means a zoological park that is open  
7 to the public for viewing of animals and that is inspected by  
8 the United States department of agriculture."

9 SECTION 2. Section 30-18-1 NMSA 1978 (being Laws 1999,  
10 Chapter 107, Section 1, as amended) is amended to read:

11 "30-18-1. CRUELTY TO ANIMALS--EXTREME CRUELTY TO  
12 ANIMALS--PENALTIES--EXCEPTIONS.--

13 A. As used in this section:

14 (1) "animal" does not include [~~insects or~~  
15 ~~reptiles~~] an insect or a reptile; provided, however, that the  
16 term does include a reptile if the reptile is a zoo animal;

17 (2) "zoo" means a zoological park that is open  
18 to the public for viewing of animals and that is inspected by  
19 the United States department of agriculture; and

20 (3) "zoo animal" means an animal that is owned  
21 by or held in the care of a zoo.

22 B. Cruelty to animals consists of a person:

23 (1) negligently mistreating, injuring, killing  
24 without lawful justification or tormenting an animal; or

25 (2) abandoning or failing to provide necessary

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1 sustenance to an animal under that person's custody or control.

2 C. As used in Subsection B of this section, "lawful  
3 justification" means:

4 (1) humanely destroying a sick or injured  
5 animal; or

6 (2) protecting a person or animal from death  
7 or injury due to an attack by another animal.

8 D. Whoever commits cruelty to animals is guilty of  
9 a misdemeanor and shall be sentenced pursuant to the provisions  
10 of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent  
11 conviction for committing cruelty to animals, the offender is  
12 guilty of a fourth degree felony and shall be sentenced  
13 pursuant to the provisions of Section 31-18-15 NMSA 1978.

14 E. Extreme cruelty to animals consists of a person:

15 (1) intentionally or maliciously torturing,  
16 mutilating, injuring or poisoning an animal; or

17 (2) maliciously killing an animal.

18 F. Whoever commits extreme cruelty to animals is  
19 guilty of a fourth degree felony and shall be sentenced  
20 pursuant to the provisions of Section 31-18-15 NMSA 1978.

21 G. The court may order a person convicted for  
22 committing cruelty to animals to participate in an animal  
23 cruelty prevention program or an animal cruelty education  
24 program. The court may also order a person convicted for  
25 committing cruelty to animals or extreme cruelty to animals to

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1 obtain psychological counseling for treatment of a mental  
2 health disorder if, in the court's judgment, the mental health  
3 disorder contributed to the commission of the criminal offense.  
4 The offender shall bear the expense of participating in an  
5 animal cruelty prevention program, animal cruelty education  
6 program or psychological counseling ordered by the court.

7 H. If a child is adjudicated of cruelty to animals,  
8 the court shall order an assessment and any necessary  
9 psychological counseling or treatment of the child.

10 I. The provisions of this section do not apply to:

11 (1) fishing, hunting, falconry, taking and  
12 trapping, as provided in Chapter 17 NMSA 1978;

13 (2) the practice of veterinary medicine, as  
14 provided in Chapter 61, Article 14 NMSA 1978;

15 (3) rodent or pest control, as provided in  
16 Chapter 77, Article 15 NMSA 1978;

17 (4) the treatment of livestock and other  
18 animals used on farms and ranches for the production of food,  
19 fiber or other agricultural products, when the treatment is in  
20 accordance with commonly accepted agricultural animal husbandry  
21 practices;

22 (5) the use of commonly accepted Mexican and  
23 American rodeo practices, unless otherwise prohibited by law;

24 (6) research facilities licensed pursuant to  
25 the provisions of 7 U.S.C. Section 2136, except when knowingly

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1 operating outside provisions, governing the treatment of  
2 animals, of a research or maintenance protocol approved by the  
3 institutional animal care and use committee of the facility; or  
4 (7) other similar activities not otherwise  
5 prohibited by law.

6 J. If there is a dispute as to what constitutes  
7 commonly accepted agricultural animal husbandry practices or  
8 commonly accepted rodeo practices, the New Mexico livestock  
9 board shall hold a hearing to determine if the practice in  
10 question is a commonly accepted agricultural animal husbandry  
11 practice or commonly accepted rodeo practice."

12 SECTION 3. EFFECTIVE DATE.--The effective date of the  
13 provisions of this act is July 1, 2015.