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**AGENCY BILL ANALYSIS - 2025 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**

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*(Analysis must be uploaded as a PDF)*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 2/14/25 *Check all that apply:*  
**Bill Number:** SB 381 Original  Correction   
 Amendment  Substitute

**Sponsor:** Rep. Candy Spence Ezzell **Agency Name and Code** AOC  
**Short Title:** Criminal Code Definition of "Livestock" **Number:** 218  
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis ( ) indicate expenditure decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) indicate revenue decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Synopsis: SB 381 amends Section 30-16-1 NMSA 1978, governing larceny, to create the following graduated penalties for stolen livestock:

- The value of the stolen livestock is \$2,500 or less: third degree felony;
- The value of the stolen livestock is more than \$2,500: second degree felony; or
- The value of the stolen livestock is more than \$20,000 and multiple livestock are stolen: second degree felony and the theft shall constitute separate offenses by not more than three per occurrence.

SB 381 also amends Section 30-16-1 NMSA 1978 to create the following graduated penalties for a stolen firearm:

- The value of the stolen firearm is \$2,500 or less: fourth degree felony;
- The value of the stolen firearm is more than \$2,500 but not more than \$7,000: third degree felony;
- The value of the stolen firearm is more than \$7,000 by not more than \$15,000: second degree felony; and
- The value of the stolen firearm is more than \$15,000: first degree felony.

The SB 381 amendment to Section 30-16-1 NMSA 1978 provides that whoever commits larceny when the property stolen is multiple livestock or firearms, the theft of each head of livestock or firearm shall constitute a separate offense.

Additionally, SB 381 amends Section 30-1-12 NMSA 1978 to define “livestock” and “head of livestock” as used in the Criminal Code.

#### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

The SB 381 amendment to Section 30-16-1 NMSA 1978, in making it a separate offense for each individual head of livestock or each firearm stolen, when there is a theft of multiple livestock or firearms, will likely result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

#### **SIGNIFICANT ISSUES**

1) In early October of 2022, the New Mexico Supreme Court ruled in *State v. Torres*, No. S-1-SC-38484 (<https://caselaw.findlaw.com/nm-supreme-court/1920870.html>), that under the state

law prohibiting livestock larceny, Section 30-16-1(G) NMSA 1978, livestock theft is to be prosecuted for each occurrence of theft rather than a separate charge for each animal allegedly stolen.

According to an October 3<sup>rd</sup> 2022 news release from the Administrative Office of the Courts,

To reach its decision, the Court analyzed the wording of the statute, the legislative purpose of the law, the severity and length of punishments provided for under the current statute, and reviewed the legislative history of laws against livestock theft since New Mexico's territorial days.

The justices rejected arguments by the state that defendants should face one charge for each head of livestock stolen. The law "contemplates prosecution for the theft of anywhere from a single animal to an entire herd," the Court reasoned.

"Specifically, the word livestock, which is neither singular nor plural, suggests that the Legislature did not contemplate a unit of prosecution based on the count or number of animals stolen in a single episode of theft," the Court wrote. "The language of the livestock larceny statute supports this reading. The statute punishes the larceny of livestock as 'a third degree felony regardless of its value.' Section 30-16-1(G) (emphasis added). This contrasts with the portion of the larceny statute addressing the theft of generic property, which provides for 'gradations of punishment based on the monetary value of the property.'"

Theft of property over \$20,000 is punished as a second-degree felony, the Court noted, while theft of property valued at \$250 or less is a petty misdemeanor.

See

<https://api.realfile.rtsclients.com/PublicFiles/f176abc1e5724236a069e99a176a74d5/6ef46edb-aa8c-4da8-bc22-5aa21cb77926/Supreme%20Court%20ruling%20resolves%20legal%20question%20about%20prosecuting%20cattle%20theft%20in%20New%20Mexico.pdf>.

2) The SB 381 amendment to Section 30-16-1 NMSA 1978, in increasing the maximum penalty for theft of livestock to a second degree felony and in making it a separate offense for each head of livestock stolen when there is a theft of multiple livestock, and for increasing the maximum penalty for theft of a firearm to a first degree felony, and in making it a separate offense for each firearm stolen, will likely result in more defendants invoking their right to trials, as well as to jury trials. More trials and more jury trials will require additional judge time, courtroom staff time, courtroom availability and jury fees. Indigent offenders are entitled to public defender services.

3) The Section 77-2-1.1(A) NMSA 1978 definition of "livestock" as used in the Livestock Code include the carcasses of all domestic or domesticated animals that are used or raised on a farm or ranch.

## **PERFORMANCE IMPLICATIONS**

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed

- Percent change in case filings by case type

**ADMINISTRATIVE IMPLICATIONS**

See “Fiscal Implications,” above.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

**TECHNICAL ISSUES**

**OTHER SUBSTANTIVE ISSUES**

**ALTERNATIVES**

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

**AMENDMENTS**