

LFC Requester:	
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**AGENCY BILL ANALYSIS
2025 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{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}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date Feb. 27, 2025
Bill No: SB 381-280

Sponsor: Sen. Candy Spence Ezzell
Short Title: Criminal Code Definition of Livestock

Agency Name and Code LOPD-280
Number: _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Livestock theft is currently limited to a third-degree felony regardless of the value of the stolen animal(s). SB 381 would create a second-degree felony option for livestock, but also creates penalties for lower values higher than those for other property.

For firearms, SB 381 would create a wholly unique penalty scheme bearing no resemblance to other value-based theft penalties, with *dramatically higher* penalties for equivalent values.

SB 381 would *also* mandate that each head of livestock or firearm shall constitute a separate offense.

FISCAL IMPLICATIONS

Enactment of any higher criminal penalty is likely to result in more trials, as more defendants will prefer to risk a trial than take a plea to the greater penalty. If more higher-penalty trials result from enactment, LOPD may need to hire more trial attorneys with greater experience to address these additional trials and ensure compliance with constitutional mandates of effective assistance of counsel. (Additionally, courts, DAs, AGs, and NMCD could anticipate increased costs.) Assessment would be necessary after the implementation of the proposed higher-penalty scheme.

SIGNIFICANT ISSUES

SB 381 creates statutory inconsistencies and the potential for unjust sentences. SB 381 would create wildly disparate and *far more serious* penalties for livestock and firearm theft than other types of theft. Livestock theft is currently limited to a third-degree felony regardless of the value of the stolen animal(s). SB 381 would create a second-degree felony option for livestock, but also creates penalties for lower values higher than those for other property. For firearms, SB 381 would create a wholly unique penalty scheme bearing no resemblance to other value-based theft penalties, with *dramatically higher* penalties for equivalent values. The bill creates a wholly disparate penalty scheme for livestock and firearm theft.

Meanwhile, despite creating a special second-degree felony for “multiple livestock” theft, and the penalty increases based on value, SB 381 would *also* mandate that each head of livestock or firearm shall constitute a separate offense allowing felony “stacking.” This runs afoul of the “single larceny doctrine” which has long punished each “episode of theft,” rather than each

stolen item.

If every stolen animal or firearm constituted a separate offense, the penalties for larceny of livestock would vastly exceed the punishment for even the most serious non-livestock thefts. A person who stole \$10 million of general property or cash would be guilty of a second-degree felony and facing nine years in prison. But a person who stole 25 cows or firearms would be guilty of *25 felonies*. The potential for extremely high penalties for a single *event* of theft would give prosecutors undue bargaining influence in plea negotiations because defendants who would otherwise be inclined to present defenses at trial would fear the risk of potentially *decades* in prison might feel compelled to accept a plea.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS