

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILL 35

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

AN ACT

RELATING TO ANIMALS; REPEALING CERTAIN EXCEPTIONS IN THE  
CRUELTY TO ANIMALS PROVISION.

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

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

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

A. As used in this section, "animal" does not  
include insects or reptiles.

[~~A.~~] B. Cruelty to animals consists of a person:  
(1) negligently mistreating, injuring, killing  
without lawful justification or tormenting an animal; or  
(2) abandoning or failing to provide necessary

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

~~[B.]~~ C. As used in Subsection [A] B of this section, "lawful justification" means:

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

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

~~[C.]~~ D. Whoever commits cruelty to animals is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent conviction for committing cruelty to animals, the offender is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

~~[D.]~~ E. Extreme cruelty to animals consists of a person:

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

(2) maliciously killing an animal.

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

~~[F.]~~ G. The court may order a person convicted for committing cruelty to animals to participate in an animal

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

10 ~~[G.]~~ H. If a child is adjudicated of cruelty to  
11 animals, the court shall order an assessment and any necessary  
12 psychological counseling or treatment of the child.

13 ~~[H.]~~ I. The provisions of this section do not apply  
14 to:

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

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

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

21 (4) the treatment of livestock and other  
22 animals used on farms and ranches for the production of food,  
23 fiber or other agricultural products, when the treatment is in  
24 accordance with commonly accepted agricultural animal husbandry  
25

practices;

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

(6) research facilities [~~intermediate handlers, carriers and exhibitors~~] licensed pursuant to the provisions of 7 U.S.C. Section 2136, except when knowingly operating outside provisions, governing the treatment of animals, of a research or maintenance protocol approved by the institutional animal care and use committee of the facility; or

(7) other similar activities not otherwise prohibited by law.

[~~I.~~] J. If there is a dispute as to what constitutes commonly accepted agricultural animal husbandry practices or commonly accepted rodeo practices, the New Mexico livestock board shall hold a hearing to determine if the practice in question is a commonly accepted agricultural animal husbandry practice or commonly accepted rodeo practice.

[~~J.~~] K. The provisions of this section shall not be interpreted to prohibit cockfighting in New Mexico.

L. Nothing in this act shall create a private right of action, civil or criminal, including injunctive actions, as to institutions described in Paragraph (6) of Subsection I of this section when not knowingly operating outside provisions governing the treatment of animals."