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HOUSE BILL 878

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO ANIMALS; AMENDING SECTIONS OF THE CRIMINAL CODE TO PROHIBIT COCKFIGHTING.

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, as amended) 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.

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.

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

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

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

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

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

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

16                   (2) maliciously killing an animal.

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

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

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

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

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

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

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

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

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

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

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

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1 animals, of a research or maintenance protocol approved by the  
2 institutional animal care and use committee of the facility; or

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

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

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

13 Section 2. Section 30-18-9 NMSA 1978 (being Laws 1981,  
14 Chapter 30, Section 1) is amended to read:

15 "30-18-9. DOG FIGHTING AND COCKFIGHTING--PENALTY.--

16 A. It is unlawful for [~~any~~] a person to cause,  
17 sponsor, arrange, hold or participate in a fight between dogs  
18 or cocks for the purpose of monetary gain or entertainment.  
19 Participation in a fight between dogs or cocks for the purpose  
20 of monetary gain or entertainment consists of an adult  
21 knowingly:

22 (1) being present at such a fight without  
23 attempting to interfere with or stop such contest; or

24 (2) owning or equipping one of the  
25 participating dogs or cocks with knowledge of such contest.

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