

FORTY-NINTH LEGISLATURE
FIRST SESSION, 2009

SB 127/a

February 10, 2009

Madam President:

Your **CONSERVATION COMMITTEE**, to whom has been referred

SENATE BILL 127

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, after the semicolon, insert "AMENDING THE LIVESTOCK CODE REGARDING CRUELLY TREATED ANIMALS;".

2. On page 2, line 3, after "An", insert "agent of the New Mexico livestock board, an".

3. On page 3, line 4, after "destruction", insert "; provided that if the animal is livestock other than poultry associated with cockfighting, the animal may be sold pursuant to the procedures set forth in Section 77-18-2 NMSA 1978."

4. On page 3, line 14, strike the ending quotation mark and between lines 14 and 15, insert the following new subsection:

"H. As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals."".

5. On page 4, between lines 2 and 3, insert the following section:

"Section 3. Section 77-18-2 NMSA 1978 (being Laws 1987, Chapter 151, Section 1, as amended) is amended to read:

"77-18-2. SEIZURE AND DISPOSITION OF CRUELLY TREATED LIVESTOCK.--

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A. If a livestock inspector or other peace officer has reason to believe that livestock ~~[are]~~ is being cruelly treated, ~~[he]~~ the inspector or peace officer may apply to a ~~[magistrate]~~ court in the county where the livestock ~~[are]~~ is located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock ~~[are]~~ is being cruelly treated, the ~~[magistrate]~~ court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. ~~[The]~~ If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978. Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of [the magistrate court] a hearing to determine disposition of the livestock.

D. ~~[After]~~ All interested parties ~~[have been]~~, including the district attorney, shall be given an opportunity to present evidence at the hearing, and if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction. If the livestock is ordered sold, the sale shall occur within ten days of the order. If the court does not find that the owner has ~~[so]~~ cruelly treated the livestock, the court shall order the livestock returned to the owner.

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E. If the [~~magistrate~~] court orders the sale of the livestock, the board shall take proper action to ensure the livestock is sold at fair market value, including acceptance of reasonable bids or sale at auction. A bid by the owner of the livestock or [~~his~~] the owner's representative shall not be accepted.

F. Proceeds from the sale of the livestock shall be forwarded to the [~~magistrate~~] court ordering the sale. From these proceeds, the [~~magistrate~~] court shall pay all expenses incurred in caring for the livestock while it was impounded and any expenses involved in its sale. Any excess proceeds of the sale shall be forwarded to the former owner. If the expenses incurred in caring for and selling the livestock [~~are more than~~] exceed the amount received from the sale, the [~~magistrate~~] court shall order the former owner to pay the additional cost."".,

and thence referred to the **JUDICIARY COMMITTEE.**

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Respectfully submitted,

Bernadette M. Sanchez, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: 0

Excused: Sharer

Absent: None

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