

1 SENATE BILL 51

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018**

3 INTRODUCED BY

4 Gay G. Kernan

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10 AN ACT

11 RELATING TO ANIMALS; IMPOSING AN ADDITIONAL FEE ON PET FOOD FOR
12 DOGS AND CATS TO FUND THE DOG AND CAT SPAY AND NEUTER
13 ASSISTANCE PROGRAM AND THE ANIMAL SHELTERING ACT; ESTABLISHING
14 A HOUSEHOLD INCOME LEVEL FOR ASSISTANCE.

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

17 SECTION 1. Section 61-14-7.1 NMSA 1978 (being Laws 2017,
18 Chapter 44, Section 3) is amended to read:

19 "61-14-7.1. ANIMAL SHELTERING COMMITTEE--DUTIES.--The
20 sheltering committee shall:

21 A. develop a voluntary statewide dog and cat spay
22 and neuter program in conjunction with animal shelters and
23 euthanasia agencies;

24 B. develop criteria for individuals, [~~nonprofit~~
25 ~~organizations~~] groups, animal shelters and euthanasia agencies

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1 to receive assistance for dog and cat [~~sterilization~~] spaying
2 and neutering from the animal care and facility fund; provided
3 that assistance to individuals and groups may only be given to
4 individuals who have, or to groups who shall only provide
5 assistance to service recipients who have, a household income
6 that does not exceed two hundred percent of the current federal
7 poverty level guidelines published by the United States
8 department of health and human services. When developing these
9 criteria, the committee shall ensure that not more than sixty
10 percent of the services go to programs in class A counties; and

11 C. recommend to the board the disbursements of
12 money from the animal care and facility fund to qualifying
13 individuals, [~~nonprofit organizations~~] groups, animal shelters
14 and euthanasia agencies."

15 SECTION 2. Section 77-1B-4 NMSA 1978 (being Laws 2007,
16 Chapter 60, Section 4, as amended) is amended to read:

17 "77-1B-4. ANIMAL CARE AND FACILITY FUND CREATED--
18 ADMINISTRATION.--

19 A. The "animal care and facility fund" is created
20 in the state treasury. All fees collected pursuant to the
21 Animal Sheltering Act shall be deposited in the fund.

22 B. The animal care and facility fund shall consist
23 of money collected by the board pursuant to the Animal
24 Sheltering Act; income from investment of the fund; and money
25 appropriated to the fund or accruing to it through fees or

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1 administrative penalties, cooperative research agreements,
2 income, gifts, grants, donations, bequests, sales of
3 promotional items, handbooks or educational materials or any
4 other source. Money in the fund shall not be transferred to
5 another fund or encumbered or expended except for expenditures
6 authorized pursuant to the Animal Sheltering Act.

7 C. Money in the fund is appropriated by the
8 legislature to the board to be used to help animal shelters and
9 communities defray the cost of implementing the board's
10 initiatives conducted pursuant to the Animal Sheltering Act.
11 The fund shall be administered by the board to carry out the
12 purposes of the Animal Sheltering Act.

13 D. The "statewide spay and neuter subaccount" is
14 established in the animal care and facility fund. Money in the
15 subaccount shall only be used to carry out the board's dog and
16 cat ~~[sterilization]~~ spay and neuter assistance program and for
17 the reasonable costs of administering the Animal Sheltering
18 Act, not to exceed seven and one-half percent of the total fees
19 collected pursuant to the provisions of Section 5 of this 2018
20 act. Money collected pursuant to Section 7-2-30.9 NMSA 1978,
21 ~~[and]~~ Section 66-3-424.3 NMSA 1978 and Section 5 of this 2018
22 act shall be deposited in the subaccount.

23 E. A disbursement from the fund shall be made only
24 upon a warrant drawn by the secretary of finance and
25 administration pursuant to a voucher signed by the executive

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1 director of the board or the director's designee with the
2 approval of the majority of the board with consideration of the
3 recommendation of a majority of the animal sheltering
4 committee.

5 F. Unexpended and unencumbered balances in the fund
6 at the end of a fiscal year shall not revert to the general
7 fund."

8 SECTION 3. Section 77-1B-5 NMSA 1978 (being Laws 2007,
9 Chapter 60, Section 5, as amended) is amended to read:

10 "77-1B-5. BOARD POWERS AND DUTIES.--The board shall:

11 A. adopt infrastructure and operating standards and
12 may enforce those standards with consideration of the
13 recommendations by the animal sheltering committee;

14 B. provide for inspections of animal shelters and
15 euthanasia agencies;

16 C. provide for oversight, including oversight of
17 licensing requirements, regulations and discipline, of
18 veterinarians employed by local government animal shelters;

19 D. adopt methods and procedures acceptable for
20 conducting emergency field euthanasia;

21 E. adopt, promulgate and revise rules necessary to
22 carry out the provisions of the Animal Sheltering Act;

23 F. have authority to issue licenses and
24 certificates pursuant to the Animal Sheltering Act;

25 G. establish the types of licenses and certificates

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1 that may be issued pursuant to the Animal Sheltering Act and
2 establish criteria for issuing the licenses and certificates;

3 H. prescribe standards and approve curricula for
4 educational programs that will be used to train and prepare
5 persons for licensure or certification pursuant to the Animal
6 Sheltering Act;

7 I. implement continuing education requirements for
8 licensees and certificate holders pursuant to the Animal
9 Sheltering Act;

10 J. conduct administrative hearings upon charges
11 relating to violations of provisions of the Animal Sheltering
12 Act or rules adopted pursuant to that act in accordance with
13 the Uniform Licensing Act;

14 K. provide for all examinations and for issuance
15 and renewal of licenses and certificates;

16 L. establish fees not to exceed one hundred fifty
17 dollars (\$150) for licenses and certificates pursuant to the
18 Animal Sheltering Act;

19 M. establish committees as the board deems
20 necessary to effect the provisions of the Animal Sheltering
21 Act;

22 N. apply for injunctive relief to enforce the
23 provisions of the Animal Sheltering Act;

24 O. conduct national criminal background checks on
25 applicants seeking licensure or certification under the Animal

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1 Sheltering Act;

2 P. keep a record of all proceedings;

3 Q. make an annual report to the legislature,
4 including information on the total number of dogs and cats
5 spayed and neutered and the average costs per surgery paid for
6 from the statewide spay and neuter subaccount of the animal
7 care and facility fund;

8 R. provide for the inspection of animal shelters
9 and euthanasia agencies;

10 S. develop mechanisms to address complaints of
11 misconduct at animal shelters and euthanasia agencies and
12 noncompliance with the provisions of the Animal Sheltering Act
13 or rules adopted pursuant to that act;

14 T. develop mechanisms to address complaints of
15 licensee and certificate holder misconduct and noncompliance;

16 U. adopt standards for maintaining records
17 concerning health care and disposition of animals; and

18 V. refer to the published national association of
19 shelter veterinarians standards in determining its regulations
20 for animal shelters and euthanasia agencies."

21 SECTION 4. Section 76-19A-1 NMSA 1978 (being Laws 2013,
22 Chapter 23, Section 1) is amended to read:

23 "76-19A-1. SHORT TITLE.--~~[This act]~~ Chapter 76, Article
24 19A NMSA 1978 may be cited as the "New Mexico Commercial Feed
25 Act"."

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1 SECTION 5. A new section of the New Mexico Commercial
2 Feed Act is enacted to read:

3 "[NEW MATERIAL] SPAY AND NEUTER PROGRAM FEE.--

4 A. Except as provided in Subsection B of this
5 section, in addition to the registration fee required pursuant
6 to Section 76-19A-10 NMSA 1978, the department shall collect a
7 fee of one hundred dollars (\$100) on each brand name or product
8 name of pet food that is distributed in New Mexico.

9 B. The provisions of Subsection A of this section
10 do not apply in cases of:

11 (1) prescription diet pet food prescribed by a
12 veterinarian; or

13 (2) pet food manufactured by a person who
14 demonstrates to the board, in a manner prescribed by the board,
15 that the person's tax-year annual gross revenue from the
16 distribution of pet food is no more than five hundred thousand
17 dollars (\$500,000).

18 C. The fee collected pursuant to Subsection A of
19 this section shall be deposited with the state treasurer and
20 credited to the statewide spay and neuter subaccount of the
21 animal care and facility fund."

22 SECTION 6. DELAYED REPEAL.--Section 5 of this act is
23 repealed effective July 1, 2028.

24 SECTION 7. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2018.

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