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AN ACT

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

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

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

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

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

B. develop criteria for individuals, groups, animal shelters and euthanasia agencies to receive assistance for dog and cat spaying and neutering from the animal care and facility fund; provided that assistance to individuals and groups may only be given to individuals who have, or to groups who shall only provide assistance to service recipients who have, a household income that does not exceed two hundred percent of the current federal poverty level guidelines published by the United States department of health and human services; and

1 C. recommend to the board the disbursements of
2 money from the animal care and facility fund to qualifying
3 individuals, groups, animal shelters and euthanasia
4 agencies."

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

7 "77-1B-4. ANIMAL CARE AND FACILITY FUND CREATED--
8 ADMINISTRATION.--

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

12 B. The animal care and facility fund shall consist
13 of money collected by the board pursuant to the Animal
14 Sheltering Act; income from investment of the fund; and money
15 appropriated to the fund or accruing to it through fees or
16 administrative penalties, cooperative research agreements,
17 income, gifts, grants, donations, bequests, sales of
18 promotional items, handbooks or educational materials or any
19 other source. Money in the fund shall not be transferred to
20 another fund or encumbered or expended except for
21 expenditures authorized pursuant to the Animal Sheltering
22 Act.

23 C. Money in the fund is appropriated by the
24 legislature to the board to be used to help animal shelters
25 and communities defray the cost of implementing the board's

1 initiatives conducted pursuant to the Animal Sheltering Act.
2 The fund shall be administered by the board to carry out the
3 purposes of the Animal Sheltering Act.

4 D. The "statewide spay and neuter subaccount" is
5 established in the animal care and facility fund. Money in
6 the subaccount shall only be used to carry out the board's
7 dog and cat spay and neuter assistance program and for the
8 reasonable costs of administering the Animal Sheltering Act,
9 which reasonable costs shall not exceed five percent of the
10 total fees distributed to the subaccount pursuant to the
11 provisions of Section 5 of this 2018 act. Money collected
12 pursuant to Section 7-2-30.9 NMSA 1978, Section 66-3-424.3
13 NMSA 1978 and Section 5 of this 2018 act shall be deposited
14 in the subaccount.

15 E. A disbursement from the fund shall be made only
16 upon a warrant drawn by the secretary of finance and
17 administration pursuant to a voucher signed by the executive
18 director of the board or the director's designee with the
19 approval of the majority of the board with consideration of
20 the recommendation of a majority of the animal sheltering
21 committee.

22 F. Unexpended and unencumbered balances in the
23 fund at the end of a fiscal year shall not revert to the
24 general fund."

25 SECTION 3. Section 77-1B-5 NMSA 1978 (being Laws 2007,

1 Chapter 60, Section 5, as amended) is amended to read:

2 "77-1B-5. BOARD POWERS AND DUTIES.--The board shall:

3 A. adopt infrastructure and operating standards
4 and may enforce those standards with consideration of the
5 recommendations by the animal sheltering committee;

6 B. provide for inspections of animal shelters and
7 euthanasia agencies;

8 C. provide for oversight, including oversight of
9 licensing requirements, regulations and discipline, of
10 veterinarians employed by local government animal shelters;

11 D. adopt methods and procedures acceptable for
12 conducting emergency field euthanasia;

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

15 F. have authority to issue licenses and
16 certificates pursuant to the Animal Sheltering Act;

17 G. establish the types of licenses and
18 certificates that may be issued pursuant to the Animal
19 Sheltering Act and establish criteria for issuing the
20 licenses and certificates;

21 H. prescribe standards and approve curricula for
22 educational programs that will be used to train and prepare
23 persons for licensure or certification pursuant to the Animal
24 Sheltering Act;

25 I. implement continuing education requirements for HB 64
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1 licensees and certificate holders pursuant to the Animal
2 Sheltering Act;

3 J. conduct administrative hearings upon charges
4 relating to violations of provisions of the Animal Sheltering
5 Act or rules adopted pursuant to that act in accordance with
6 the Uniform Licensing Act;

7 K. provide for all examinations and for issuance
8 and renewal of licenses and certificates;

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

12 M. establish committees as the board deems
13 necessary to effect the provisions of the Animal Sheltering
14 Act;

15 N. apply for injunctive relief to enforce the
16 provisions of the Animal Sheltering Act;

17 O. conduct national criminal background checks on
18 applicants seeking licensure or certification under the
19 Animal Sheltering Act;

20 P. keep a record of all proceedings;

21 Q. make an annual report to the legislature,
22 including information on the total number of dogs and cats
23 spayed and neutered and the average costs per surgery paid
24 for from the statewide spay and neuter subaccount of the
25 animal care and facility fund. The New Mexico department of

1 agriculture shall provide for inclusion in the annual report
2 the number of pet food product labels by registrant for the
3 current and previous year registered pursuant to Section
4 76-19A-10 NMSA 1978;

5 R. provide for the inspection of animal shelters
6 and euthanasia agencies;

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

11 T. develop mechanisms to address complaints of
12 licensee and certificate holder misconduct and noncompliance;

13 U. adopt standards for maintaining records
14 concerning health care and disposition of animals; and

15 V. refer to the published national association of
16 shelter veterinarians standards in determining its
17 regulations for animal shelters and euthanasia agencies."

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

20 "76-19A-1. SHORT TITLE.--Chapter 76, Article 19A NMSA
21 1978 may be cited as the "New Mexico Commercial Feed Act"."

22 **SECTION 5.** A new section of the New Mexico Commercial
23 Feed Act is enacted to read:

24 "SPAY AND NEUTER PROGRAM FEE.--

25 A. Except as provided in Subsection B of this

1 section, in addition to the registration fee required
2 pursuant to Section 76-19A-10 NMSA 1978, the department shall
3 collect an annual fee on each brand name or product name of
4 pet food that is distributed in New Mexico as follows:

5 (1) beginning January 1, 2019, fifty dollars
6 (\$50.00);

7 (2) beginning January 1, 2020, seventy-five
8 dollars (\$75.00); and

9 (3) on and after January 1, 2021, one
10 hundred dollars (\$100).

11 B. The provisions of Subsection A of this section
12 do not apply in cases of:

13 (1) prescription diet pet food prescribed by
14 a veterinarian; or

15 (2) pet food manufactured by a person who
16 demonstrates to the board, in a manner prescribed by the
17 board, that the person's tax-year annual gross revenue from
18 the distribution of pet food is no more than three million
19 dollars (\$3,000,000).

20 C. The fee collected pursuant to Subsection A of
21 this section shall be distributed as follows:

22 (1) ninety-six percent of the fee to the
23 state treasurer to be credited to the statewide spay and
24 neuter subaccount of the animal care and facility fund; and

25 (2) four percent of the fee to the board for

1 the department to administer the New Mexico Commercial Feed
2 Act."

3 SECTION 6. DELAYED REPEAL.--Section 5 of this act is
4 repealed effective July 1, 2024.

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

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