

1 SENATE BILL 271

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Carrie Hamblen

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9  
10 AN ACT

11 RELATING TO LIVESTOCK; DEFINING "EQUINE" AND SUBSTITUTING THAT  
12 TERM FOR "HORSE"; REVISING PROCEDURES FOR EQUINE ESTRAYS;  
13 AMENDING THE LIVESTOCK CODE AND OTHER SECTIONS OF THE NMSA  
14 1978.

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

17 SECTION 1. Section 7-2-30.7 NMSA 1978 (being Laws 2013,  
18 Chapter 49, Section 2) is amended to read:

19 "7-2-30.7. OPTIONAL DESIGNATION OF TAX REFUND  
20 CONTRIBUTION--~~[HORSE]~~ EQUINE SHELTER RESCUE FUND.--

21 A. Any individual whose state income tax liability  
22 after application of allowable credits and tax rebates in any  
23 year is lower than the amount of money held by the department  
24 to the credit of such individual for that tax year may  
25 designate any portion of the income tax refund due to the

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1 individual to be paid to the [~~horse~~] equine shelter rescue  
2 fund. In the case of a joint return, both individuals must  
3 make such a designation.

4 B. The department shall revise the state income tax  
5 form to allow the designation of such contributions in the  
6 following form:

7 "[~~Horse~~] Equine Shelter Rescue Fund - Check [ ] if  
8 you wish to contribute a part or all of your tax  
9 refund to the [~~horse~~] equine shelter rescue fund.  
10 Enter here \$ \_\_\_\_\_ the amount of your  
11 contribution."

12 C. The provisions of this section do not apply to  
13 income tax refunds subject to interception under the provisions  
14 of the Tax Refund Intercept Program Act, and any designation  
15 made under the provisions of this section to such refunds is  
16 void."

17 SECTION 2. Section 30-18-1.2 NMSA 1978 (being Laws 1999,  
18 Chapter 107, Section 3, as amended) is amended to read:

19 "30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

20 A. If the court finds that a seized animal is not  
21 being cruelly treated and that the animal's owner is able to  
22 provide for the animal adequately, the court shall return the  
23 animal to its owner.

24 B. If the court finds that a seized animal is being  
25 cruelly treated or that the animal's owner is unable to provide

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1 for the animal adequately, the court shall hold a hearing to  
2 determine the disposition of the animal.

3 C. An agent of the New Mexico livestock board, an  
4 animal control agency operated by the state, a county or a  
5 municipality, or an animal shelter or other animal welfare  
6 organization designated by an animal control agency or an  
7 animal shelter, in the custody of which an animal that has been  
8 cruelly treated has been placed may petition the court to  
9 request that the animal's owner may be ordered to post security  
10 with the court to indemnify the costs incurred to care and  
11 provide for the seized animal pending the disposition of any  
12 criminal charges of committing cruelty to animals pending  
13 against the animal's owner.

14 D. The court shall determine the amount of security  
15 while taking into consideration all of the circumstances of the  
16 case including the owner's ability to pay, and may conduct  
17 periodic reviews of its order. If the posting of security is  
18 ordered, the New Mexico livestock board, animal control agency,  
19 animal shelter or animal welfare organization may, with  
20 permission of the court, draw from the security to indemnify  
21 the costs incurred to care and provide for the seized animal  
22 pending disposition of the criminal charges.

23 E. If the owner of the animal does not post  
24 security within fifteen days after the issuance of the order,  
25 or if, after reasonable and diligent attempts the owner cannot

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1 be located, the animal may be deemed abandoned and relinquished  
2 to the New Mexico livestock board, animal control agency,  
3 animal shelter or animal welfare organization for adoption or  
4 humane destruction; provided that if the animal is livestock  
5 other than poultry associated with cockfighting, the animal may  
6 be sold pursuant to the procedures set forth in Section 77-18-2  
7 NMSA 1978.

8 F. Nothing in this section shall prohibit an owner  
9 from voluntarily relinquishing an animal to an animal control  
10 agency or shelter in lieu of posting security. A voluntary  
11 relinquishment shall not preclude further prosecution of any  
12 criminal charges alleging that the owner has committed felony  
13 cruelty to animals.

14 G. Upon conviction, the court shall place the  
15 animal with an animal shelter or animal welfare organization  
16 for placement or for humane destruction.

17 H. As used in this section, "livestock" means all  
18 domestic or domesticated animals that are used or raised on a  
19 farm or ranch and exotic animals in captivity and includes  
20 [~~horses, asses, mules~~] equines as defined in Section 77-2-1.1  
21 NMSA 1978, cattle, sheep, goats, swine, bison, poultry,  
22 ostriches, emus, rheas, camelids and farmed cervidae but does  
23 not include canine or feline animals."

24 SECTION 3. Section 77-2-1.1 NMSA 1978 (being Laws 1993,  
25 Chapter 248, Section 2, as amended) is amended to read:

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1 "77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

2 A. "animals" or "livestock" means all domestic or  
3 domesticated animals that are used or raised on a farm or  
4 ranch, including the carcasses thereof, and exotic animals in  
5 captivity and includes [~~horses, asses, mules~~] equines, cattle,  
6 sheep, goats, swine, bison, poultry, ostriches, emus, rheas,  
7 camelids and farmed cervidae upon any land in New Mexico.

8 "Animals" or "livestock" does not include canine or feline  
9 animals;

10 B. "bill of sale" means an instrument in  
11 substantially the form specified in The Livestock Code by which  
12 the owner or the owner's authorized agent transfers to the  
13 buyer the title to animals described in the bill of sale;

14 C. "bison" or "buffalo" means a bovine animal of  
15 the species bison;

16 D. "board" means the New Mexico livestock board;

17 E. "bond" means cash or an insurance agreement from  
18 a New Mexico licensed surety or insurance corporation pledging  
19 surety for financial loss caused to another, including  
20 certificate of deposit, letter of credit or other surety as may  
21 be approved by the grain inspection, packers and stockyards  
22 administration of the United States department of agriculture  
23 or the board;

24 F. "brand" means a symbol or device in a form  
25 approved by and recorded with the board as may be sufficient to

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1 readily distinguish livestock should they become intermixed  
2 with other livestock;

3 G. "brand inspector" means an inspector who is not  
4 certified as a peace officer;

5 H. "carcasses" means dead or dressed bodies of  
6 livestock or parts thereof;

7 I. "cattle" means animals of the genus bos,  
8 including dairy cattle, and does not include any other kind of  
9 livestock;

10 J. "dairy cattle" means animals of the genus bos  
11 raised not for consumption but for dairy products and  
12 distinguished from meat breed cattle;

13 K. "director" means the executive director of the  
14 board;

15 L. "disease" means a communicable, infectious or  
16 contagious disease;

17 M. "district" means a livestock inspection  
18 district;

19 N. "equine" means a horse, pony, mule, donkey or  
20 hinny;

21 ~~[N.]~~ O. "estray" means livestock found running at  
22 large upon public or private lands, either fenced or unfenced,  
23 whose owner is unknown, or that is branded with a brand that is  
24 not on record in the office of the board or is a freshly  
25 branded or marked offspring not with its branded or marked

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1 mother, unless other proof of ownership is produced;

2 [Q-] P. "inspector" means a livestock or brand  
3 inspector;

4 [P-] Q. "livestock inspector" means a certified  
5 inspector who is granted full law enforcement powers for  
6 enforcement of The Livestock Code and other criminal laws  
7 relating to livestock;

8 [Q-] R. "mark" means an ear tag or ownership mark  
9 that is not a brand;

10 [R-] S. "meat" means the edible flesh of poultry,  
11 birds or animals sold for human consumption and includes  
12 livestock, poultry and livestock and poultry products;

13 [S-] T. "mule" means a hybrid resulting from the  
14 cross of a horse and an ass; and

15 [F-] U. "person" means an individual, firm,  
16 partnership, association, corporation or similar legal entity."

17 SECTION 4. Section 77-2-30 NMSA 1978 (being Laws 2005,  
18 Chapter 236, Section 1) is amended to read:

19 "77-2-30. [HORSE] EQUINE RESCUE OR RETIREMENT FACILITY--  
20 REGISTRATION--BOARD POWERS AND DUTIES--FEES.--

21 A. As used in this section, "facility" means [~~a~~  
22 ~~horse~~] an equine rescue or retirement facility, including a  
23 private reserve or private preserve, that advertises [~~of~~] or  
24 solicits for [~~horses~~] equines and provides lifelong care or  
25 finds new owners for [~~horses~~] equines that are unwanted or have

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1 been neglected or abused or captured wild [~~horses~~] equines that  
2 cannot be returned to their range.

3 B. A facility shall not operate in New Mexico  
4 unless registered by the board.

5 C. The board shall:

6 (1) register facilities that meet the  
7 requirements of this section;

8 (2) annually consult with representatives from  
9 the equine industry, equine rescue organizations and  
10 veterinarians on facility standards; and

11 (3) after consideration of recommendations by  
12 national organizations for the care of unwanted [~~horses~~]  
13 equines and equine rescue and retirement facilities, promulgate  
14 rules for facilities, including:

15 (a) health and sanitary requirements;

16 (b) standards for barns, paddocks,  
17 pastures and ranges;

18 (c) qualifications of the facility  
19 staff;

20 (d) provision of veterinary care;

21 (e) feeding and watering requirements;

22 (f) transportation; [~~and~~]

23 (g) a process to issue a temporary  
24 capacity waiver to a facility for the purpose of transferring  
25 equines in the custody of the board to a facility; and

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1                                    [~~(g)~~] (h) other requirements necessary  
2 to ensure the humane care of [~~horses~~] equines.

3                                    D. The board may charge the following fees:

4                                    (1) an initial inspection and registration fee  
5 of not more than two hundred fifty dollars (\$250);

6                                    (2) an annual inspection and registration fee  
7 of not more than one hundred dollars (\$100); and

8                                    (3) reinspection fees of not more than one  
9 hundred dollars (\$100).

10                                   E. Fees collected pursuant to this section shall be  
11 deposited in the New Mexico livestock board general fund and  
12 may be used to carry out the provisions of [~~Sections 1 and 2 of~~  
13 ~~this act~~] this section and Section 77-2-31 NMSA 1978."

14                                   SECTION 5. Section 77-2-31 NMSA 1978 (being Laws 2005,  
15 Chapter 236, Section 2) is amended to read:

16                                   "77-2-31. [~~HORSE~~] EQUINE RESCUE OR RETIREMENT  
17 FACILITIES--INSPECTIONS--REINSPECTION.--

18                                   A. Prior to annual registration, each facility  
19 shall be inspected in accordance with board rules.

20                                   B. The board or its agents may enter the premises  
21 of a facility to conduct unannounced inspections.

22                                   C. If, following an inspection, the board  
23 determines that the facility does not meet the board's minimum  
24 facility requirements, it shall give the registrant written  
25 notice of the deficiencies and schedule a reinspection,

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1 allowing a reasonable time for the registrant to correct the  
2 deficiencies.

3 D. The registrant shall remedy the deficiencies and  
4 submit evidence to the board demonstrating compliance with  
5 board rules for the facility.

6 E. If on reinspection the board determines that the  
7 facility is still deficient in those areas for which it has  
8 been given written notice, the [~~horses~~] equines may be  
9 impounded in accordance with the provisions of Section 77-18-2  
10 NMSA 1978 and the board shall hold a hearing as provided in the  
11 Uniform Licensing Act to determine if the registration should  
12 be suspended or revoked.

13 F. If a facility's registration is suspended or  
14 revoked, the board shall place the [~~horses~~] equines in another  
15 facility."

16 SECTION 6. Section 77-2-32 NMSA 1978 (being Laws 2013,  
17 Chapter 49, Section 1) is amended to read:

18 "77-2-32. [~~HORSE~~] EQUINE SHELTER RESCUE FUND--CREATED.--

19 A. The "[~~horse~~] equine shelter rescue fund" is  
20 created as a nonreverting fund in the state treasury. The fund  
21 consists of appropriations, gifts, grants, donations and  
22 amounts designated pursuant to Section [~~2 of this 2013 act~~]  
23 7-2-30.7 NMSA 1978. The board shall administer the fund, and  
24 money in the fund is appropriated to the board to carry out the  
25 intent of aiding [~~horse~~] equine rescues and homeless [~~horses~~]

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1 equines in the state.

2 B. The board shall establish by rule the  
3 distribution of funds from the [~~horse~~] equine shelter rescue  
4 fund to [~~horse~~] equine rescue and retirement facilities  
5 registered by the board pursuant to Section 77-2-30 NMSA 1978,  
6 taking into consideration the number of [~~horses~~] equines being  
7 cared for in each facility and the need of each facility."

8 SECTION 7. Section 77-13-4 NMSA 1978 (being Laws 1907,  
9 Chapter 80, Section 4, as amended) is amended to read:

10 "77-13-4. OWNER UNKNOWN--PUBLICATION AND POSTING OF  
11 NOTICE.--

12 A. If the director [~~of the New Mexico livestock~~  
13 ~~board~~] is unable to determine from the records and description  
14 who is the owner or probable owner of [~~such~~] an estray, [~~or~~  
15 ~~estrays, he~~] the director shall publish at least once in some  
16 publication in general circulation in the county in which the  
17 estray animal was picked up, [~~said~~] the publication to be  
18 designated by the [~~New Mexico livestock~~] board, a notice of  
19 [~~such~~] the estray [~~which~~].

20 B. For an estray that is not an equine, the notice  
21 shall give a description of the animal [~~or animals~~], shall  
22 state when and where [~~the same were~~] the animal was impounded  
23 and shall give notice that unless the animal [~~or animals are~~]  
24 is claimed by the legal owner within five days after the  
25 publication of the notice, the [~~same~~] animal shall be sold by

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1 the [~~New Mexico livestock~~] board for the benefit of the owner  
2 when found.

3 C. For an estray that is an equine, the notice  
4 shall give a description of the equine and shall:

5 (1) state when and where the equine was  
6 impounded and shall give notice that, unless the equine is  
7 claimed by the legal owner within five days after publication  
8 of the notice, a registered equine rescue or retirement  
9 facility shall be given the right of first refusal to purchase  
10 the equine for an ownership transfer fee equal to all actual  
11 costs incurred by the impounding agency in caring for the  
12 equine while the equine was impounded; and

13 (2) give notice that if a registered equine  
14 rescue or retirement facility is unable or unwilling to  
15 purchase the equine, the board shall auction the equine through  
16 a sealed-bid process administered by the board and established  
17 in rule and that if the equine is not purchased through the  
18 sealed-bid process, the board may pursue an alternative  
19 placement for care with a last resort option to humanely  
20 euthanize the equine by a licensed veterinarian."

21 SECTION 8. Section 77-13-5 NMSA 1978 (being Laws 1907,  
22 Chapter 80, Section 5, as amended) is amended to read:

23 "77-13-5. [~~SALE~~] DISPOSITION OF UNCLAIMED ESTRAYS--BILL  
24 OF SALE--EFFECT--SALE WITHOUT ADVERTISEMENT--CONDITIONS.--

25 A. If an estray that is not an equine is not

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1 claimed within five days after the last publication of notice,  
2 it may be sold by the board through an inspector in such manner  
3 as the board may direct. The inspector making the sale shall  
4 give a bill of sale to the purchaser from the board, signed by  
5 [~~himself as~~] the inspector. The bill of sale shall be legal  
6 evidence of the ownership of the livestock by the purchaser and  
7 shall be a legal title to the livestock. Where the director  
8 determines that it is impractical to publish notice, the estray  
9 may be sold immediately without notice. In such case, the  
10 board shall publish notice of the proceeds from the sale of the  
11 estray in the same manner and for the same length of time as  
12 provided for the notice of the sale and shall hold and  
13 distribute the proceeds from the sale in the same manner as if  
14 the sale were made after notice.

15 B. If the estray is an equine and the equine is not  
16 claimed within five days after the last publication of notice:

17 (1) the board shall give a registered equine  
18 rescue or retirement facility the right of first refusal to  
19 purchase the equine for an ownership transfer fee;

20 (2) the ownership transfer fee shall be equal  
21 to all actual costs incurred by the impounding agency in caring  
22 for the equine while the equine was impounded;

23 (3) the board shall provide a bill of sale to  
24 the registered equine rescue or retirement facility that  
25 purchases the equine;

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1                   (4) the bill of sale shall be legal evidence  
2 of the ownership of the equine by the registered equine rescue  
3 or retirement facility and shall be legal title to the equine;

4                   (5) if a registered equine rescue or  
5 retirement facility is unable or unwilling to purchase the  
6 equine, the board shall auction the equine through a sealed-bid  
7 process administered by the board and established in rule; and

8                   (6) if the equine is not purchased through the  
9 sealed-bid process, the board may pursue an alternative  
10 placement for care with a last resort option to humanely  
11  euthanize the equine by a licensed veterinarian."

12                   SECTION 9. Section 77-14-7 NMSA 1978 (being Laws 1909,  
13 Chapter 146, Section 4, as amended) is amended to read:

14                   "77-14-7. LIVESTOCK RUNNING AT LARGE--WHEN UNLAWFUL--  
15 IMPOUNDING--~~[SALE]~~ DISPOSITION--SUIT FOR DAMAGES.--

16                   A. It is unlawful for the owners of livestock to  
17 willfully allow the livestock to run at large within the town,  
18 conservancy district, irrigation district or military  
19 reservation or enclave. An owner who willfully allows  
20 livestock to run at large is guilty of a misdemeanor and upon  
21 conviction shall be punished in accordance with the provisions  
22 of Section 31-19-1 NMSA 1978 for each offense.

23                   B. For livestock that is not an equine, the sheriff  
24 or other peace officer or proper military authority or the  
25 board shall impound livestock found running at large and sell

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1 the livestock at public auction to the highest bidder for cash  
2 after giving notice of the time and place of sale in some  
3 newspaper published in the county where the violation occurred  
4 three days prior to the day of sale; provided that in the case  
5 of a military reservation or enclave, the sale shall be  
6 conducted by the board pursuant to the procedure set forth in  
7 Section 77-14-36 NMSA 1978. The proceeds up to ten dollars  
8 (\$10.00) per day for each animal shall be retained by the  
9 impounding authority to cover its expense and fees. The  
10 balance, if any, shall be paid to the general fund.

11 C. For livestock that is an equine, the sheriff,  
12 other peace officer, proper military authority or the board  
13 shall impound the equine running at large and give notice in  
14 some newspaper published in the county where the violation  
15 occurred of a description of the equine and state when and  
16 where the equine was impounded and that:

17 (1) unless the equine is redeemed by the legal  
18 owner within three days after publication of the notice, a  
19 registered equine rescue or retirement facility shall be given  
20 the right of first refusal to purchase the equine for an  
21 ownership transfer fee equal to all actual costs incurred by  
22 the impounding agency in caring for the equine while the equine  
23 was impounded;

24 (2) if a registered equine rescue or  
25 retirement facility is unable or unwilling to purchase the

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1 equine, the board shall auction the equine through a sealed-bid  
2 process administered by the board and established in rule;

3 (3) if the equine is not purchased through the  
4 sealed-bid process, the board may pursue an alternative  
5 placement for care with a last resort option to humanely  
6  euthanize the equine by a licensed veterinarian; and

7 (4) any proceeds from the sale of an equine  
8 pursuant to this subsection shall be retained by the impounding  
9 authority to cover its expenses and costs, and the balance, if  
10 any, shall be paid to the general fund.

11 ~~[G.]~~ D. The owner of livestock impounded may redeem  
12 the livestock at any time prior to ~~[sale]~~ disposition by paying  
13 the impound fees and costs incurred for each day or portion of  
14 a day that the livestock has been in custody; provided that in  
15 the case of a military reservation or enclave, redemption shall  
16 be allowed pursuant to Section 77-14-36 NMSA 1978.

17 ~~[D.]~~ E. A person claiming damages for violation of  
18 the ~~[order]~~ provisions of Subsection A of this section may file  
19 suit to recover damages as in other civil cases; provided that  
20 such damages, in the case of a violation involving a military  
21 reservation or enclave, shall include direct, indirect,  
22 incidental and consequential damages."

23 SECTION 10. Section 77-14-36 NMSA 1978 (being Laws 1975,  
24 Chapter 329, Section 1, as amended) is amended to read:

25 "77-14-36. IMPOUNDMENT OF TRESPASS LIVESTOCK.--

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1           A. Any livestock found to be in trespass upon the  
2 lands of another or running at large upon any public highway  
3 ~~[which]~~ that is fenced on both sides or running at large within  
4 the limits of any municipality, town or village, whether  
5 incorporated or not, or within a military reservation or  
6 enclave ~~[whether incorporated or not]~~ is subject to impoundment  
7 by an agent of the ~~[New Mexico livestock]~~ board. The place of  
8 impoundment shall be at the nearest or most convenient location  
9 from where the trespass occurred.

10           B. Any livestock impounded under the provisions of  
11 this section ~~[will]~~ shall be released to the owner or ~~[his]~~ the  
12 owner's representative upon the payment by the owner of a fee  
13 set by regulation of the ~~[New Mexico livestock]~~ board not to  
14 exceed amounts prescribed by law for impounding ~~[if any~~  
15 ~~incurred]~~.

16           C. The ~~[New Mexico livestock]~~ board shall designate  
17 ~~[the person]~~ a custodian and a place of impoundment and allow a  
18 reasonable fee to be charged by the custodian of the impounded  
19 livestock; provided that in case of a controversy as to what  
20 constitutes a reasonable charge, the board shall set the amount  
21 of the charge.

22           D. This section shall not be construed to affect  
23 the obligation of a property owner of meeting the requirements  
24 of Section 77-16-1 NMSA 1978 for fencing against such  
25 trespasses.

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1           E. Any cost charged against trespass livestock will  
2 be a lien on the livestock. If the owner does not pay the  
3 charges and reclaim possession of the livestock within five  
4 days after receipt of notification by the owner, the livestock  
5 shall be considered unclaimed estrays and may be [~~sold~~]  
6 disposed of in accordance with the provisions of Section  
7 77-13-5 NMSA 1978."

8           SECTION 11. Section 77-18-2 NMSA 1978 (being Laws 1987,  
9 Chapter 151, Section 1, as amended) is amended to read:

10           "77-18-2. SEIZURE AND DISPOSITION OF CRUELLY TREATED  
11 LIVESTOCK.--

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

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

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1 C. If criminal charges are filed against the owner,  
2 the court shall, upon proper petition, proceed to determine if  
3 security is required to be posted pursuant to Section 30-18-1.2  
4 NMSA 1978. Otherwise, the judge or magistrate executing the  
5 warrant shall notify the board, have the livestock impounded  
6 and give written notice to the owner of the livestock of the  
7 time and place of a hearing to determine disposition of the  
8 livestock. All interested parties, including the district  
9 attorney, shall be given an opportunity to present evidence at  
10 the hearing.

11 D. ~~[All interested parties, including the district~~  
12 ~~attorney, shall be given an opportunity to present evidence at~~  
13 ~~the hearing, and]~~ For livestock that is not an equine:

14 (1) if the court finds that the owner has  
15 cruelly treated the livestock, the court shall order the sale  
16 of the livestock at fair market value or order humane  
17 destruction; provided that if the livestock ~~[is]~~ are ordered  
18 sold, the sale shall occur within ten days of the order; and  
19 further provided that if the court does not find that the owner  
20 has cruelly treated the livestock, the court shall order the  
21 livestock returned to the owner;

22 ~~[E.]~~ (2) if the court orders the sale of the  
23 livestock, the board shall take proper action to ensure that  
24 the livestock ~~[is]~~ are sold at fair market value, including  
25 acceptance of reasonable bids or sale at auction; provided that

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1 a bid by the owner of the livestock or the owner's  
2 representative shall not be accepted; and

3 ~~[F.]~~ (3) proceeds from the sale of the  
4 livestock shall be forwarded to the court ordering the sale;  
5 provided that from these proceeds, the court shall pay all  
6 expenses incurred in caring for the livestock while ~~[it was]~~  
7 they were impounded and any expenses involved in ~~[its]~~ their  
8 sale; and further provided that any excess proceeds of the sale  
9 shall be forwarded to the former owner; and further provided  
10 that if the expenses incurred in caring for and selling the  
11 livestock exceed the amount received from the sale, the court  
12 shall order the former owner to pay the additional cost.

13 E. For livestock that is an equine:

14 (1) if the court finds that the owner has  
15 cruelly treated the equine, the court shall give a registered  
16 equine rescue or retirement facility the right of first refusal  
17 to purchase the equine for an ownership transfer fee equal to  
18 all actual costs incurred by the impounding agency in caring  
19 for the equine while the equine was impounded; provided that:

20 (a) the board shall provide a bill of  
21 sale to the registered equine rescue or retirement facility  
22 that purchases the equine; and

23 (b) the bill of sale shall be legal  
24 evidence of the ownership of the equine by the registered  
25 equine rescue or retirement facility and shall be legal title

underscored material = new  
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1 to the equine;

2 (2) if the court finds that the owner has  
3 cruelly treated the equine and a registered equine rescue or  
4 retirement facility has been given the right of first refusal  
5 but the registered equine rescue or retirement facility is  
6 unable or unwilling to purchase the equine:

7 (a) the board shall auction the equine  
8 through a sealed-bid process administered by the board and  
9 established by rule;

10 (b) any proceeds from the sale less  
11 expenses incurred in caring for the equine while the equine was  
12 impounded shall be forwarded to the former owner;

13 (c) if the expenses incurred in caring  
14 for the equine exceed the proceeds from the sale, the court  
15 shall order the former owner to pay the additional costs; and

16 (d) if the equine is not purchased  
17 through the sealed-bid process, the board may pursue an  
18 alternative placement for care with a last resort option to  
19 humanely euthanize the equine by a licensed veterinarian; and

20 (3) if the court does not find that the owner  
21 cruelly treated the equine, the court shall order the equine  
22 returned to the owner."

23 SECTION 12. EFFECTIVE DATE.--The effective date of the  
24 provisions of this act is July 1, 2023.