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HOUSE BILL 159

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Al Park

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL LAW; EXPANDING AND CLARIFYING THE CRIME OF
CRUELTY TO ANIMALS; PROVIDING A PENALTY FOR LEAVING AN ANIMAL
IN A HOT CAR; INCREASING PENALTY WHEN CRUELTY CAUSES DEATH OR
GREAT BODILY HARM; CLARIFYING THE APPLICATION OF THE PRACTICE
OF VETERINARY MEDICINE.

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:

(1) "animal" does not include insects [~~or~~
reptiles];

(2) "great bodily harm" means an injury that

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1 creates a high probability of death; that causes serious
2 disfigurement; or that results in permanent or protracted loss
3 or impairment of the function of any member or organ of the
4 body;

5 (3) "lawful justification" means:

6 (a) humanely destroying a sick or
7 injured animal; or

8 (b) protecting a person or animal from
9 death or injury due to an attack by another animal;

10 (4) "mistreating" means tormenting,
11 torturing, mutilating, poisoning or otherwise inflicting
12 unnecessary physical injury upon an animal;

13 (5) "negligently" refers to criminal
14 negligence and means that a person knew or should have known of
15 the danger involved and acted with a reckless disregard for the
16 safety or health of an animal; and

17 (6) "sustenance" means food, water or shelter.

18 B. Cruelty to animals consists of a person:

19 (1) negligently mistreating [~~injuring~~] an
20 animal;

21 (2) negligently killing an animal without
22 lawful justification [~~or tormenting an animal; or~~];

23 [+2] (3) intentionally abandoning [~~or~~] an
24 animal under that person's custody or control;

25 (4) failing to provide necessary sustenance to

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1 an animal under that person's custody or control; or
2 (5) leaving an animal unattended and confined
3 inside a motor vehicle when physical injury or death to the
4 animal is likely to result.

5 ~~[G. As used in Subsection B of this section,~~
6 ~~"lawful justification" means:~~

7 ~~(1) humanely destroying a sick or injured~~
8 ~~animal; or~~

9 ~~(2) protecting a person or animal from death~~
10 ~~or injury due to an attack by another animal.~~

11 ~~D.]~~ C. Whoever commits cruelty to animals is guilty
12 of a misdemeanor ~~[and shall be sentenced pursuant to the~~
13 ~~provisions of Section 31-19-1 NMSA 1978]~~ and, upon a fourth or
14 subsequent conviction ~~[for committing cruelty to animals, the~~
15 ~~offender]~~, is guilty of a fourth degree felony ~~[and shall be~~
16 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~
17 ~~1978].~~ Whoever commits cruelty to animals that results in
18 great bodily harm or death to the animal is guilty of a fourth
19 degree felony.

20 ~~[E.]~~ D. Extreme cruelty to animals consists of a
21 person:

22 (1) intentionally or maliciously ~~[torturing,~~
23 ~~mutilating, injuring or poisoning]~~ mistreating an animal; or

24 (2) intentionally or maliciously killing an
25 animal without lawful justification.

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1 ~~[F.]~~ E. Whoever commits extreme cruelty to animals
2 is guilty of a fourth degree felony. ~~[and shall be sentenced~~
3 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978~~

4 ~~G.]~~ F. The court may order a person convicted for
5 committing cruelty to animals to participate in an animal
6 cruelty prevention program or an animal cruelty education
7 program. The court may also order a person convicted for
8 committing cruelty to animals or extreme cruelty to animals to
9 obtain psychological counseling for treatment of a mental
10 health disorder if, in the court's judgment, the mental health
11 disorder contributed to the commission of the criminal offense.
12 The offender shall bear the expense of participating in an
13 animal cruelty prevention program, animal cruelty education
14 program or psychological counseling ordered by the court.

15 ~~[H.]~~ G. If a child is adjudicated of cruelty to
16 animals, the court shall order an assessment and any necessary
17 psychological counseling or treatment of the child.

18 ~~[I.]~~ H. The provisions of this section do not apply
19 to:

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

22 (2) the practice of veterinary medicine, as
23 provided in Chapter 61, Article 14 NMSA 1978, when the practice
24 is in accordance with commonly accepted veterinary practices.

25 In the event of a dispute, the board of veterinary medicine

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1 shall determine what is a commonly accepted veterinary
2 practice;

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

5 (4) the treatment of livestock and other
6 animals used on farms and ranches for the production of food,
7 fiber or other agricultural products, when the treatment is in
8 accordance with commonly accepted agricultural animal husbandry
9 practices;

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

12 (6) research facilities [~~licensed~~] registered
13 pursuant to [~~the provisions of~~] 7 U.S.C. Section 2136, except
14 when knowingly operating outside provisions governing the
15 treatment of animals of a research or maintenance protocol
16 approved by the institutional animal care and use committee of
17 the facility; or

18 (7) other similar activities not otherwise
19 prohibited by law.

20 [J.] I. If there is a dispute as to what
21 constitutes commonly accepted agricultural animal husbandry
22 practices or commonly accepted rodeo practices, the New Mexico
23 livestock board shall hold a hearing to determine if the
24 practice in question is a commonly accepted agricultural animal
25 husbandry practice or commonly accepted rodeo practice."

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1 Section 2. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2009.

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