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SENATE BILL 103

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Tim Eichenberg

AN ACT

RELATING TO CRUELTY TO ANIMALS; CLARIFYING THE PROVISION FOR
ABANDONMENT OR FAILURE TO PROVIDE SUSTENANCE; PROVIDING THAT
EXTREME CRUELTY TO ANIMALS INCLUDES STARVING OR DEHYDRATING AN
ANIMAL.

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, "animal" does not
include insects or reptiles.

B. Cruelty to animals consists of a person:

(1) negligently mistreating, injuring, killing
without lawful justification or tormenting an animal; or

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1 (2) knowingly abandoning or failing to provide
2 necessary sustenance to an animal that is under that person's
3 custody or control.

4 C. As used in Subsection B of this section, "lawful
5 justification" means:

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

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

10 D. Whoever commits cruelty to animals is guilty of
11 a misdemeanor and shall be sentenced pursuant to the provisions
12 of Section 31-19-1 NMSA 1978. Upon a fourth or subsequent
13 conviction for committing cruelty to animals, the offender is
14 guilty of a fourth degree felony and shall be sentenced
15 pursuant to the provisions of Section 31-18-15 NMSA 1978.

16 E. Extreme cruelty to animals consists of a person:

17 (1) intentionally or maliciously torturing,
18 mutilating, injuring or poisoning an animal; [~~or~~]

19 (2) maliciously killing an animal; or

20 (3) intentionally starving or dehydrating an
21 animal to a point that imperils the animal's life.

22 F. Whoever commits extreme cruelty to animals is
23 guilty of a fourth degree felony and shall be sentenced
24 pursuant to the provisions of Section 31-18-15 NMSA 1978.

25 G. The court may order a person convicted for

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

11 H. If a child is adjudicated of cruelty to animals,
12 the court shall order an assessment and any necessary
13 psychological counseling or treatment of the child.

14 I. The provisions of this section do not apply to:

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

17 (2) the practice of veterinary medicine, as
18 provided in Chapter 61, Article 14 NMSA 1978;

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

21 (4) the treatment of livestock and other
22 animals used on farms and ranches for the production of food,
23 fiber or other agricultural products, when the treatment is in
24 accordance with commonly accepted agricultural animal husbandry
25 practices;

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

3 (6) research facilities licensed pursuant to
4 the provisions of 7 U.S.C. Section 2136, except when knowingly
5 operating outside provisions, governing the treatment of
6 animals, of a research or maintenance protocol approved by the
7 institutional animal care and use committee of the facility; or

8 (7) other similar activities not otherwise
9 prohibited by law.

10 J. If there is a dispute as to what constitutes
11 commonly accepted agricultural animal husbandry practices or
12 commonly accepted rodeo practices, the New Mexico livestock
13 board shall hold a hearing to determine if the practice in
14 question is a commonly accepted agricultural animal husbandry
15 practice or commonly accepted rodeo practice."