

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 121

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO HIGHWAYS; REINSTATING THE DEPARTMENT OF
TRANSPORTATION'S DUTY TO MAINTAIN FENCING, CATTLE GUARDS AND
LIVESTOCK WARNING SIGNS ON PUBLIC HIGHWAYS; AMENDING AND
RECOMPILING SECTIONS OF THE NMSA 1978.

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

SECTION 1. Section 66-7-363 NMSA 1978 (being Laws 1953,
Chapter 139, Section 119.1, as amended) is amended to read:

"66-7-363. ANIMALS ON HIGHWAY--HIGHWAY FENCING---

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A. It is unlawful for any person, during the hours of darkness, to ride a horse or other animal upon the traveled portion of any highway that is normally used by motor vehicles.

B. It is unlawful for any person negligently to permit livestock to wander or graze upon any fenced highway at any time or, during the hours of darkness, to drive livestock along or upon any highway that is normally used by motor vehicles.

C. Owners of livestock ranging in pastures through which unfenced roads or highways pass shall not be liable for damages by reason of injury or damage to persons or property occasioned by collisions of vehicles using the roads and highways and livestock ranging in the pastures unless the owner of the livestock is guilty of [~~specific~~] ~~Sfl~~→gross←~~Sfl~~ negligence other than allowing livestock to range in the pasture.

D. HTPWC→~~The~~ As the department of transportation's annual budget permits, the←HTPWC department of transportation shall:

(1) construct, inspect regularly and maintain fences along all highways under its jurisdiction and provide cattle underpasses, water pipelines and cattle guards as the department of transportation may deem necessary, unless it makes a fact determination that no livestock can enter the highway from a portion left unfenced; and

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(2) post proper signs along all highways under its jurisdiction that are not fenced on both sides and that are located adjacent to property containing livestock. The signs shall be located at intervals of not more than two miles along such unfenced highways; provided that sign intervals and postings shall be consistent with the department of transportation's specifications for a uniform system of traffic-control devices, subject to traffic safety engineering discretion, and shall warn motorists that loose livestock may be encountered and that caution should be used.

[D.] E. A person who violates the provisions of Subsection A or B of this section is guilty of a penalty assessment misdemeanor. Sfl→”←Sfl

Sfl→~~F. As used in this section, "gross negligence" means an act or omission done without the exercise of even slight care under the circumstances.~~←Sfl

SECTION 2. Section 30-8-14 NMSA 1978 (being Laws 1975, Chapter 283, Section 1) is recompiled as Section 66-7-363.1 NMSA 1978 and is amended to read:

"66-7-363.1. [HIGHWAY] DEPARTMENT OF TRANSPORTATION-- AGREEMENTS WITH OWNERS OR LESSEES OF HIGHWAY FRONTAGE-- PROVISIONS.--

A. Notwithstanding the responsibility of the [highway] department of transportation under the provisions of Section [40A-8-10 NMSA 1953] 66-7-363 NMSA 1978 to construct, inspect regularly and maintain fences along all highways under its jurisdiction, the [highway] department of transportation may enter into an agreement with an owner or lessee of property

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adjoining a public highway to keep a specified section of the highway frontage unfenced for use as roadside business; provided, however, that ~~[such]~~ the owner or lessee, whoever is party to the agreement, ~~[shall agree]~~ agrees:

(1) to assume full responsibility for constructing and maintaining livestock fencing on the property ~~[which he]~~ that the owner or lessee owns or leases in such a manner so as to prevent the entry of livestock onto the highway; and

(2) to be liable for any damage caused by livestock entering upon the public highway from ~~[his]~~ the owner's or lessee's property if the property in question is not fenced or the fencing not maintained pursuant to the agreement with the ~~[highway]~~ department of transportation.

B. Nothing in this section shall preclude an owner or lessee who has entered into an agreement with the ~~[highway]~~ department of transportation pursuant to this section from also being subject to the penalties set out in Section ~~[40A-8-10 NMSA 1953]~~ 66-7-363 NMSA 1978."

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