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HOUSE BILL 316

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

INTRODUCED BY

Andy Nuñez

AN ACT

RELATING TO RAILROADS; AMENDING A SECTION OF THE LIVESTOCK CODE
TO PROVIDE BETTER ENFORCEMENT OF FENCING LAWS REQUIRED OF
RAILROADS; PROVIDING A PENALTY.

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

SECTION 1. Section 77-16-16 NMSA 1978 (being Laws 1889,
Chapter 75, Section 1, as amended) is amended to read:

"77-16-16. RAILROADS--FENCING OF LINES--LIVESTOCK
DAMAGE.--

A. Every railroad in this state whose lines of
road, or any part thereof, are open for use and every railroad
company formed or to be formed shall, within six months after
the lines of [~~such~~] the railroad or any part thereof are open,
erect and thereafter maintain fences on the sides of [~~their~~
~~said~~] the railroad or the part thereof so open for use,

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 suitably and amply sufficient to prevent [~~cattle, horses,~~
2 ~~sheep, mules, burros and hogs~~] livestock from getting on the
3 [~~said~~] railroad, except at the crossings of public roads and
4 highways and within the limits of [~~towns, cities and villages~~]
5 municipalities and shall also construct, where [~~the same has~~]
6 not already [~~been~~] done, and maintain at all public road
7 crossings now existing or hereafter established cattle guards
8 suitable and sufficient to prevent [~~cattle, horses, sheep,~~
9 ~~burros, mules, and hogs~~] livestock from getting onto [~~said~~] the
10 railroad. If any railroad [~~shall fail~~] fails to construct and
11 maintain [~~such~~] fences and cattle guards as [~~herein~~] directed
12 [~~such~~] in this section, the railroad shall be liable to the
13 owner for all damages resulting from injury or death caused to
14 any [~~such~~] livestock, including [~~a~~] reasonable attorney fees,
15 on order of the court should legal proceedings be commenced by
16 [~~such~~] the owner. [~~Provided, further, that~~] Should the [~~cattle~~
17 ~~sanitary~~] New Mexico livestock board be unable to determine
18 ownership of livestock crippled or killed by the railroad
19 within thirty [~~(30)~~] days of the date it first receives notice
20 of such injury or death, by report or otherwise, then the board
21 [~~may~~] shall institute legal proceedings in the name of [~~such~~]
22 the unknown owner in any court of competent jurisdiction and
23 recover damages as [~~herein~~] provided in this section, and the
24 proceeds shall be disposed of as provided for under the laws
25 pertaining to estrays.

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underscoring material = new
~~[bracketed material]~~ = delete

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B. A person that violates the provisions of this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."