

1 SENATE BILL 301

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

3 INTRODUCED BY

4 Brenda G. McKenna and Matthew McQueen

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10 AN ACT

11 RELATING TO ANIMALS; ALLOWING FERTILITY CONTROL, RELOCATION AND
12 ADOPTION OF FREE-ROAMING HORSES UNDER CERTAIN CIRCUMSTANCES;
13 ALLOWING A FREE-ROAMING HORSE EXPERT TO CONTROL THE POPULATION
14 OF FREE-ROAMING HORSES ON CERTAIN LAND THROUGH CERTAIN METHODS;
15 REQUIRING THE NEW MEXICO LIVESTOCK BOARD TO APPROVE THE
16 QUALIFICATIONS OF A FREE-ROAMING HORSE EXPERT; ALLOWING THE NEW
17 MEXICO LIVESTOCK BOARD TO MAKE RULES REGARDING THE APPROVAL OF
18 THE QUALIFICATIONS OF A FREE-ROAMING HORSE EXPERT; PROHIBITING
19 THE SLAUGHTER OR EXPORT FOR SLAUGHTER OF FREE-ROAMING HORSES;
20 PROVIDING A PENALTY.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 "77-2-30. HORSE RESCUE OR RETIREMENT FACILITY--

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1 REGISTRATION--BOARD POWERS AND DUTIES--FEES.--

2 A. As used in this section, "facility" means a
3 horse rescue or retirement facility, including a private
4 reserve or private preserve, that ~~[advertises or solicits for~~
5 ~~horses and provides lifelong care or finds new owners for~~
6 ~~horses that are unwanted or have been neglected or abused or~~
7 ~~captured wild horses that cannot be returned to their range]~~
8 provides lifelong care or finds new owners for unwanted, abused
9 or neglected horses or captured free-roaming horses.

10 B. A facility shall not operate in New Mexico
11 unless registered by the board.

12 C. The board shall:

13 (1) register facilities that meet the
14 requirements of this section;

15 (2) annually consult with representatives from
16 the equine industry, equine rescue organizations and
17 veterinarians on facility standards; and

18 (3) after consideration of recommendations by
19 national organizations for the care of unwanted horses and
20 equine rescue and retirement facilities, promulgate rules for
21 facilities, including:

- 22 (a) health and sanitary requirements;
- 23 (b) standards for barns, paddocks,
24 pastures and ranges;
- 25 (c) qualifications of the facility

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1 staff;

2 (d) provision of veterinary care;

3 (e) feeding and watering requirements;

4 (f) transportation; and

5 (g) other requirements necessary to

6 ensure the humane care of horses.

7 D. The board may charge the following fees:

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

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

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

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

18 SECTION 2. A new section of Chapter 77, Article 2 NMSA
19 1978 is enacted to read:

20 "[NEW MATERIAL] FREE-ROAMING HORSE EXPERT--APPROVAL OF
21 QUALIFICATIONS--RULES.--

22 A. The board may approve the qualifications of a
23 free-roaming horse expert for the purposes of managing a range
24 inhabited by a free-roaming horse or herd upon a finding that
25 the free-roaming horse expert has demonstrated:

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1 (1) expertise in conducting free-roaming horse
2 herd surveys;

3 (2) an understanding of land carrying capacity
4 analyses, land status and property ownership; and

5 (3) an understanding of free-roaming horse
6 habitat, biology, behavior and management strategies.

7 B. The board may promulgate rules regarding the
8 approval of the qualifications of a free-roaming horse expert."

9 SECTION 3. Section 77-18-5 NMSA 1978 (being Laws 2007,
10 Chapter 216, Section 1) is amended to read:

11 "77-18-5. [~~WILD HORSES--CONFORMATION, HISTORY AND~~
12 ~~DEOXYRIBONUCLEIC ACID TESTING--SPANISH COLONIAL HORSES--BIRTH]~~
13 FREE-ROAMING HORSES--HUMANE MANAGEMENT--FERTILITY CONTROL.--

14 [~~A. As used in this section:~~

15 (1) ~~"public land" does not include federal~~
16 ~~land controlled by the bureau of land management, the forest~~
17 ~~service or state trust land controlled by the state land~~
18 ~~office;~~

19 (2) ~~"range" means the amount of land necessary~~
20 ~~to sustain a herd of wild horses, which does not exceed its~~
21 ~~known territorial limits;~~

22 (3) ~~"Spanish colonial horse" means a wild~~
23 ~~horse that is descended from horses of the Spanish colonial~~
24 ~~period; and~~

25 (4) ~~"wild horse" means an unclaimed horse on~~

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1 ~~public land that is not an estray.~~

2 ~~B. A wild horse that is captured on public land~~
3 ~~shall have its conformation, history and deoxyribonucleic acid~~
4 ~~tested to determine if it is a Spanish colonial horse. If it~~
5 ~~is a Spanish colonial horse, the wild horse shall be relocated~~
6 ~~to a state or private wild horse preserve created and~~
7 ~~maintained for the purpose of protecting Spanish colonial~~
8 ~~horses. If it is not a Spanish colonial horse, it shall be~~
9 ~~returned to the public land, relocated to a public or private~~
10 ~~wild horse preserve or put up for adoption by the agency on~~
11 ~~whose land the wild horse was captured.~~

12 ~~C. If the mammal division of the museum of~~
13 ~~southwestern biology at the university of New Mexico determines~~
14 ~~that a wild horse herd exceeds the number of horses that is~~
15 ~~necessary for preserving the genetic stock of the herd and for~~
16 ~~preserving and maintaining the range, it may cause control of~~
17 ~~the wild horse population through the use of birth control and~~
18 ~~may cause excess horses to be:~~

19 ~~(1) humanely captured and relocated to other~~
20 ~~public land or to a public or private wild horse preserve;~~

21 ~~(2) adopted by a qualified person for private~~
22 ~~maintenance; or~~

23 ~~(3) euthanized; provided that this option~~
24 ~~applies only to wild horses that are determined by a~~
25 ~~veterinarian to be crippled or otherwise unhealthy.]~~

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1 A. If a qualified free-roaming horse expert
2 determines that the range inhabited by a free-roaming horse or
3 herd exceeds its carrying capacity, the expert, and those
4 employed, trained and supervised by that individual, may cause
5 control of a free-roaming horse or herd upon the approval of
6 the appropriate landowner through:

7 (1) the use of fertility control via
8 immunocontraception or castration;

9 (2) humane capture and relocation to a horse
10 rescue or retirement facility or public or private horse
11 preserve that is registered with the board or an out-of-state
12 facility that meets the board's facility standards for lifelong
13 sanctuary care or for the purposes of adoption of the
14 free-roaming horse or horses;

15 (3) humane capture and relocation to a range,
16 with the permission of the landowner, that has the capacity to
17 sustain free-roaming horse herds or family bands; or

18 (4) for a horse with an untreatable medical
19 condition that significantly impacts the horse's quality of
20 life, humane euthanasia.

21 B. A free-roaming horse captured pursuant to this
22 section and relocated to a horse rescue or retirement facility
23 or a public or private horse preserve shall be microchipped or
24 freeze branded for individual and ownership identification
25 purposes.

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1 C. Nothing in this section shall authorize a
2 qualified free-roaming horse expert to engage in herd
3 management activities on federal or tribal land.

4 D. A person shall not slaughter, allow to be
5 slaughtered or export for slaughter a free-roaming horse. Each
6 horse that is slaughtered, allowed to be slaughtered or
7 exported for slaughter constitutes a separate offense. A
8 person who violates this subsection is guilty of a misdemeanor
9 and upon conviction shall be sentenced in accordance with the
10 provisions of Section 31-19-1 NMSA 1978.

11 E. As used in this section:

12 (1) "adoption" means the adoption of a horse
13 by a qualified individual who has demonstrated to the horse
14 rescue or retirement facility the capacity and intent to
15 provide humane treatment and care of the animal, including
16 proper feeding, sheltering, husbandry, handling and care;

17 (2) "carrying capacity" means the number of
18 grazing animals that a given amount of land can support
19 long-term while maintaining or improving the vegetation, soils
20 and water;

21 (3) "free-roaming horse" means an unclaimed
22 horse found at large that is not an estray and does not include
23 equines subject to the jurisdiction of the federal government
24 pursuant to the federal Wild Free-Roaming Horses and Burros
25 Act;

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1 (4) "humane capture" means to gather or move
2 free-roaming horses to a holding location using baited corrals
3 or other low-stress methods whenever feasible, but does not
4 include use of aircraft or motorized vehicles;

5 (5) "humane euthanasia" means to produce a
6 humane death of an animal, as recommended by a veterinarian due
7 to an untreatable medical condition that significantly impacts
8 the horse's quality of life, by standards deemed acceptable by
9 the board of veterinary medicine as set forth in the board's
10 rules;

11 (6) "qualified free-roaming horse expert"
12 means an individual who has demonstrated expertise in
13 conducting free-roaming horse herd surveys and a demonstrated
14 understanding of land carrying capacity analyses, land status,
15 property ownership and free-roaming horse habitat, biology,
16 behavior and management strategies and is qualified by the
17 board; and

18 (7) "range" means land inhabited by or able to
19 sustain free-roaming horse herds or family bands."